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## From Boon To Bust: State Lottery Policy & How Stakeholder-Created Beneficiary Fund Structure Determines Vulnerability To Future Legislative Grabs

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FROM BOON TO BUST: STATE LOTTERY POLICY & HOW STAKEHOLDER-  
CREATED BENEFICIARY FUND STRUCTURE DETERMINES VULNERABILITY  
TO FUTURE LEGISLATIVE GRABS

by

Lisa Mathews

A THESIS

Presented to the Faculty of  
The Graduate College at the University of Nebraska  
In Partial Fulfillment of Requirements  
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Major: Political Science

Under the Supervision of Professor Kevin B. Smith

Lincoln, Nebraska

May, 2012

FROM BOON TO BUST: STATE LOTTERY POLICY & HOW STAKEHOLDER-  
CREATED BENEFICIARY FUND STRUCTURE DETERMINES VULNERABILITY  
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University of Nebraska, 2012

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Funding K-12 education is one of the largest public expenditures for most states in the U.S., and Nebraska is no exception (Nebraska Department of Administrative Services, 2011). Since the 1960s, the policy of state-enacted lotteries has slowly but steadily spread throughout the country with all but seven states now operating a lottery to benefit a range of community and social programs with Education being the most common beneficiary (Novarro, 2002). Since the Nebraska lottery's inception in 1993, about \$400 million has been raised for these primary beneficiaries and other beneficiaries on a smaller scale. Legislative and Constitutional changes have left the education funds vulnerable to being used to fix state budget shortfalls instead of being used for the original purpose of adding extra funds to K-12 education (Appendix B). In fact, during fiscal years 2001-02 through 2006-07, the state Legislature passed bills that diverted 86% of the education funds to the General Fund, amounting to more than \$48 million, or diverting \$8 million of the \$9.4 million of the annual average available during that six-year period (Appendix E). The environmental fund, however, was not left as vulnerable and has been able to successfully withstand recent legislative challenges (Appendix B).

Why wasn't the environmental fund equally at risk? This study takes a first-cut attempt at explaining why one fund was protected from future legislatures looking for money to relieve budget shortfalls, and why the other fund was better positioned for sustainability. In order to describe and explain this phenomenon, the two groups of stakeholders of the primary lottery beneficiary funds in Nebraska were qualitatively researched to explain how one fund was provided greater protection from legislative fund diversions in an era of perceived lottery windfalls that were initially meant to supplement funding to schools.

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**Dedication**

For Janet:

My mom, my first teacher, and my greatest supporter.

For Mace:

My son, my motivation, and my most significant research project.

## **Acknowledgements**

You think at the outset of a project you will remember everyone who helped you along the way so that when the time comes to thank them, it will simply be a matter of putting good words in the right order and spelling names correctly. Then, rather suddenly, the time arrives to give credit to all the individuals who, through either duty or kindness, made time to help. At the same time, you make sure to personally accept all blame for errors and omissions – they are indeed my own – that are bound to occur. As the names are listed and the good deeds recorded, it becomes clear that for every person who could be named, there are multiple others who should be acknowledged as well, but are not, for matters of tradition, aging memory or space. Because, truth is, for every teacher who taught me something, I had a student who taught me something else. I have had the finest official department and university advisers, but for each one there were numerous professors, graduate students and staff who also advised and mentored me. And, while my family and friends may have wondered why I continued in school (most care very little about political science or public policy), never did any of them discourage me from the goal. Instead, these people I am fortunate to know, who are among the funniest people alive, made me laugh when I wanted to quit or needed a way to cope with a workload best suited for those in their twenties.

There could never be enough space to name everyone who should be named and the thought of leaving someone out would ruin my sleep for the next decade. Yet, I suspect that if you are among those reading this, your name most likely belongs on this page. I want to sincerely thank you for everything. I am quite sure I owe you a latte.

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## **Chapter 1 – Introduction**

The story has become common among states with long-standing state-run lotteries: Education beneficiary funds have not turned out to be the boon anticipated by taxpayers and educators. Nebraska, too, has not been immune from legislative changes that took place nearly 12 years after voters first approved the state-run lottery to benefit education and the environment in 1992. A voter-approved Constitutional amendment in 2004 was billed as an amendment to support the State Fair (Nebraska Secretary of State, 2004). One piece of that amendment was to designate 10% of the revenue to the city hosting the Nebraska State Fair (ibid). What was not well-publicized and virtually unmentioned in all of the archived newspapers from that timeframe was the addition of a phrase that gave the Legislature complete discretion with the lottery funds earmarked for education (ibid, see Appendix B). This discretion includes the ability to transfer all the lottery education funds to the general fund if the Legislature so chooses. The result: Instead of increased education spending in the form of grants to fund innovative projects at K-12 schools from the lottery profits, as anticipated from campaign promises by then-Gov. Ben Nelson and lottery proponents, the Legislature has dismantled the Council charged with recommending these grants and the state's K-12 schools are no longer receiving the funds as originally promised (see Appendix B).

In 1992, Nebraska voters were courted with visions of extra money being allocated to K-12 education above what was already being contributed by federal, state and local property taxes, not funds that could be subsumed into the general fund. The public bought into the message and 62% of voters approved establishing the lottery. The

Nebraska lottery policy created two primary beneficiaries: education (Nebraska Legislature, 1991) and the environment (Nebraska Legislature, 1992). Since the state lottery's inception, nearly \$430 million has been raised for these primary beneficiaries and other beneficiaries on a smaller scale (Nebraska Lottery, 2012). That has amounted to slightly more than \$32 million transferred annually to all the beneficiary funds each of the last two fiscal years, 2009-10 and 2010-11 (Nebraska Lottery).

However, legislative and Constitutional changes have left the education funds vulnerable to being used to fix state budget shortfalls instead of being used for the original purpose of adding extra funds to K-12 education (Appendix B). In fact, during fiscal years 2001-02 through 2006-07, the state Legislature passed bills that diverted 86% of the education funds to the General Fund, amounting to more than \$48 million, or diverting \$8 million of the \$9.4 million of the annual average available during that six-year period (Appendix E). Yet, the environmental fund was not left as vulnerable to these later legislative grabs and has been able to better withstand recent legislative challenges to the money held by the Environmental Trust (Appendix B).

Why wasn't the environmental fund equally at risk? This study takes a first-cut attempt to explain why one fund was better protected from future legislatures looking for money to relieve budget shortfalls, and why the other fund was more vulnerable.

What follows in Chapter 2 is a review of the foundational and relevant literature that sets the stage for this study. Several study areas intersect for this research including: School Funding, Policy Diffusion and Implementation, Stakeholder Theory and Practice, Lottery Policy and Lottery Effects on Future School Funding. After establishing what is

already known in each focus area, details of where the gaps exist in the literature and how this study can contribute to that knowledge will be discussed.

In Chapter 3, the research questions and the methodology for this study along with data collection details will be explained in depth, followed by the concluding section, Chapter 4, which will discuss the findings from this study and make suggestions for future research. Several tables and figures will be found either in the text or in the appendices provided and a comprehensive bibliography is also made part of this work. Appendix B presents a chronology of the Nebraska Lottery policy that includes legislative changes to the statutes; Attorney General opinions on the beneficiary funds and how they operate; newspaper articles on the beneficiary funds; and challenges to the Funds by the Nebraska Legislature. It is anticipated that the usefulness of Appendix B will be experienced beyond its contribution to this study, as no comparable history of the state's lottery policy is currently available.

While every effort was made to actually track the dollars earmarked for education and compare those dollars with the funds designated to the Environmental Trust Fund, this function was hampered in numerous ways. To begin with, because each fund has a different structure and disbursement system, they are not accounted for in the same way. The Environmental Trust Fund, and its Endowment Fund, is the easier of the two to trace the money that is transferred to the Fund from the Nebraska Lottery each quarter to see how the Trust allocates the funds. The Environmental Trust has a standardized grant process that is well established and the Board publishes not only the yearly applications for grants, but also a list of the actual grantees at the end of the process. Each year, the

Trust produces an annual report that also discloses not only the Lottery transfers, but also the interest income earned and then the amount of grants issued that year. Of the two primary beneficiary groups, the Trust is the most transparent. That is not to say the Environmental Trust is without its critics as articles in the *Lincoln Journal Star* (Duggan, JournalStar.com, 2011) have questioned the Trust's awarding of numerous grants to its attached agency, the Game and Parks Commission; along with the University of Nebraska, and city of Lincoln after a "pre-audit" report was released by the Legislative Performance Audit Committee staff (Legislative Performance Audit Committee, 2011). The pre-audit report to the Nebraska Legislature provides basic information regarding statutory compliance by the Fund. In a previous audit released in 2001, the legislative research unit staff raised concerns about the role of the Game and Parks Commission Director with the Board (Nebraska Legislature Program Evaluation Unit, 2001). The staff questioned the Director's role as heading the agency attached to the Fund to provide the administrative and management function for the Board, while also being one of the largest recipients of Trust grants (ibid). The practice was that the Game and Parks Director hired the Executive Director for the Trust and also approved its budget (ibid). Changes were made during the 2002 legislative session that gave the Trust greater autonomy from the Commission Director and staff (Legislative Performance Audit Committee, 2011).

For the Education fund, no such public dialogue can exist because of the different method of disbursing the earmarked education funds. This lack of transparency results in the inability to distinguish the lottery education funds from regular state education

funding. The important question of whether the money is being spent according to the wishes of the electorate has become nearly impossible to answer. Numerous requests to state auditors, state accountants and other involved agencies for assistance to follow the lottery beneficiary money for education met with responses such as “its too complicated,” or most often a referral to a different department or agency. For example, a simple request to the state’s accounting department administrator was made based upon a conversation with a state auditor who said the accounting department would be able to track where the education funds were transferred to once they left the revenue funds designated for the lottery deposits (D. Dunlap, personal conversation, 2011). The Nebraska Lottery’s responsibility is to transfer the funds out of the lottery account and to the beneficiary accounts quarterly, based upon the percentages established by the Nebraska Statutes and multiple revisions (see Appendices B, C and E). Once the Lottery makes that transfer, its role is complete and the Lottery has been audited by the State Auditor regularly and has always been in compliance with this responsibility (Nebraska State Auditor, 2010). To get these later transfers to see which state divisions were receiving the education funds, the staff auditor provided the name of the administrator of the state accounting department. After contacting the administrator with the request, an update was sent about a week later informing that they were discussing the request and working on the best way to get that information. Another week later, an email was received from the administrator explaining that his department – the state accounting department – might not have 20 years worth of data recorded electronically and referred

the question to Lottery officials even though the request is obviously outside the scope of Lottery responsibility.

This type of bureaucratic red-tape made the research difficult and forces us to focus on the legislative “intent” of where the money was to be spent each year rather than the reality of where the money actually was spent, and the only fund figures available were the quarterly transfers posted on the Nebraska Lottery Web site (Nebraska Lottery, 2010). For example, when looking at how much money was diverted by the Legislature, those quarterly deposits can be used to ascertain the current funds available, but when the Legislature directs also that “all unobligated funds” be transferred as well (see Appendix E), without an accounting of the available funds, it is impossible to put a dollar amount on this directive. This issue of transparency will be discussed again in the concluding section, but what is important at this point is to keep in mind that the problems with tracing the earmarked education funds is a direct result of the way these funds were established and structured, which is the basis of this research. Not only was one fund more protected from the Legislature during tough budgetary times, it was also structured as a more transparent fund where the public could see how the money was allocated and later, when problems within that structure were discovered, they were quickly corrected. The Education fund structure, on the other hand, completely lacks this transparency, thus making it virtually impossible to assess the fund’s key beneficiaries and have much confidence in the state’s stewardship of these public funds.

The effects of the lottery policy on Nebraska schools have not been well studied and without the type of transparency that exists with the environmental funds, it appears

unlikely to happen. What should be of concern, however, is whether the task of educating the children of Nebraska has been harmed by the introduction of lottery beneficiary funds, considering the lasting perception that these funds continue to boost education spending within the state (personal interview with Nebraska elementary school principal, 2010). One of the most challenging jobs for a K-12 school principal today is the continual need to work with parent groups to fundraise for, oftentimes, basic school needs (ibid). The public perception these fundraisers have to face with each request for donations is that schools don't truly need the money because schools have the lottery money (ibid). This continuing perception by taxpayers and parents sabotages most fundraising projects because they are believed to be unnecessary (ibid).



## **Chapter 2 – Literature Review**

While state lotteries are not without controversy, the scope of this study is not to question the morality issue surrounding state-operated lotteries, nor the concern of some that lotteries are a regressive tax by raising money for the state disproportionately among the lower economic classes of citizens (Nibert, 2000). Others say this claim may be unfounded and that studies are showing mixed results on whether people of all socio-economic levels purchase lottery tickets (Manzo, 2000). A further argument contends that lottery benefits to education, in general, are disproportionately distributed resulting in the people who contribute the most to the lottery tend to reap the fewest benefits (Nibert 2000). The issue to be evaluated in this study is the lottery post-adoption: the translation of the lottery law into action and how implementation of lottery policy has affected state K-12 education funding, one of the two designated primary beneficiaries in Nebraska.

This study encompasses several key areas of study such as generalized theories and history of school funding, the generalized literature on policy diffusion and implementation, down to the specifics of the lottery law in Nebraska and the literature illustrating specific effects of lottery funds on state school spending over time. The literature in each of these areas is robust and provides a basis for the research questions to be addressed in Chapter 3: How are lottery beneficiary funds structured by stakeholders to protect a fund from future legislative money grabs or structured in a way that leaves the fund vulnerable? How did the decisions on beneficiary fund creation in Nebraska affect future school funding from lottery revenue? It is anticipated that by studying this

distinctive case of two similar funds in Nebraska will help to develop a generalized understanding of how beneficiary fund establishment and implementation determine the future of beneficiary support.

School Funding. One of the largest state expenditures is public education (Monk & Brent, 1997). In Nebraska, roughly thirty percent of the state budget is allocated to K-12 education (Nebraska Department of Administrative Services, 2011, p. 2). Although constitutionally guaranteed, the reality of publicly funded education is there are more programs requesting funding than money available to fund them. Furthermore, Nebraska – along with many other states – has experienced budget crises that have required even deeper cuts, not only in education, but made across all state departments and agencies. Yet education – because of its importance to families, to the economic growth of the region and nationally for the inculcation of democratic values and training good citizens and workers – combines emotional, social and fiscal values that establish it as a vital institution (Wood & Theobald, 2003).

Public schools in the United States are funded with a mix of federal, state and local tax revenues, using complex allocation formulas that consider enrollments, types of students enrolled such as the number of special needs students and the level of family wealth, and the property wealth of specific school districts (Odden & Picus, 2000). Because local school funding is based upon property taxes collected, disparities between school districts create additional political issues that are generally addressed at the state level. Equity in funding is a key issue (Wood & Theobald, 2003) since schools are primarily governed and financed locally. The ability of wealthier areas to raise greater

amounts of revenue means that some children will receive a different level of education than their counterparts in less affluent areas. One explanation of why schools in poorer districts are at an unfair advantage is that they tend to deal with more social problems such as poverty, gang violence and a family's negative perception of education (Wood & Theobald, 2003). These disparities can also be seen in states such as Nebraska where the urban schools are in prosperous areas and offer more services and advantages than their rural counterparts. This "inequality of opportunity" is something that Americans loathe to acknowledge especially in education (Kingdon, 1999). Kingdon's essay on why Americans are inherently different than people from other countries posits that Americans in theory are in favor of "equality of opportunity" but not "equality of result" (1999). Further, he explains in his somewhat dated essay that while Americans are steadfast in their dislike for taxes, the funding of public education is generally an accepted tax because it supports this ideal of equality of opportunity (1999).

However, the reality that some schools are better funded than others doesn't seem to bother Americans and most people would not give up that local stakeholder control and local funding mechanism for a federally equalized education system (1999). Additionally, there is little evidence that even if the issue were to become a Supreme Court case, it is unlikely that significant social change would occur and that the Court would remove education from the states and, more specifically, local control (Rosenberg, 1991; Canon & Johnson, 1999). All of these allocation decisions are political decisions, which creates challenges because when school funding changes are made, political coalitions that support the decision need to be built among different stakeholder groups

and maintained to fight any legal challenges that may arise (Wong, 1999). In sum, education is both a public and a private good because not only does it benefit society, it also creates benefits for individuals (Swanson & King, 1996, p. 5).

School Funding in Nebraska. The method of funding schools in Nebraska has been long-challenged as inequitable because of the wide range of district types across the state and the mix of rural and urban school districts. Decades of bitter legal battles have resulted in a system of financing that has been cobbled together in attempts to appease the different stakeholders and the multitude of student needs, much of which is not covered by federal funds yet the state is mandated to provide these services (Nebraska Department of Education, 2011).

The promise of adopting a state lottery in Nebraska was that the state's K-12 schools could be infused with a new stream of revenue that would not come from increased property taxes. Led by the Governor, the message was that this would be extra money for the K-12 schools and that Nebraska would not make the same mistakes that other states, such as California, had made by allowing schools to rely on lottery revenues for basic operating expenses (see Appendix B). At the time, incorporating lottery revenues into the schools seemed like a solution to the legal battles and budget fights that plagued the state.

The final section of this literature review looks extensively at the research that provides the basis of our knowledge about the relationship between lotteries and public school funding. These historical studies inform this research because when asking how the education funds were left more vulnerable than the environmental funds, it becomes

clear from the research that numerous other states have experienced the same phenomenon with earmarked education funds over time. Rather than continue to simply recognize the trend that appears to take place with these funds historically, this study attempts to use the Nebraska case study of two funds to explain how this happened and the stakeholder attributes that contributed to the situation.

Policy Diffusion. The policy diffusion literature is rich with models that demonstrate the slow and steady adoption of state lotteries that have spread from one to 43 states in the union, in addition to the District of Columbia and the U.S. territories of Puerto Rico and the U.S. Virgin Islands (USA.gov 2011). When voters in Nebraska approved establishing a state lottery in Nov. 1992, it was the 37<sup>th</sup> lottery in the U.S. (Nebraska Lottery, 2011). Once state-operated lotteries began in the mid-1960s, they were seen as an easy solution to perennial budget problems (Gribben & Bean, 2005). Berry and Berry's (1990) work using event history analysis posits that Mohr's (1969) theory of state innovation was a good starting point: that innovation among states happens when the obstacles are low and the motivation to innovate is high. Berry and Berry run with Mohr's theory and test it using their own theory that there are "internal determinants" (395) of an individual state consisting of its "political, economic and social characteristics" (396), along with "regional diffusion" that looks at how policy adoption by a neighboring state influences surrounding states to adopt the same policy (396). Certainly, the model of how neighboring states influence policy adoption within a state has helped explain state lottery adoptions. Nebraska, for example, has six neighboring states: South Dakota, Iowa, Missouri, Kansas, Colorado and Wyoming. Of these six

neighbors, five enacted lotteries during the 1983-1986 timespan and each incorporated education as at least one of its beneficiaries. Nebraska enacted its lottery six years later in 1992. Only one neighbor, Wyoming, is still without a state lottery although a legislative bill to create a state lottery was introduced in 2011 and failed (Barron, 2011). Wyoming proponents for the lottery bill raised the point that Utah is Wyoming's only neighboring state without a lottery, underscoring the point made by Berry & Berry that states watch their neighbors for signals on which policies to adopt and act accordingly (Berry & Berry, 1990).

While Gray (1973) explains state adoption of innovation to be a result of the relationships built among state leaders that cross state boundaries, Berry and Berry (1990) argue that the internal makeup of a state and the regional influences must both be considered in order to understand how, and when, a state will innovate. Furthermore, there are subtleties within this idea of regional influences that are important to acknowledge. Despite the Nebraska example of neighboring states and lottery adoption, the notion that a state will adopt a new policy merely because a neighboring state does so is not substantiated by the research. What is known is that states do learn from neighboring states and that the first one or two neighbors that adopt a new policy are the most influential determinants upon whether a state will adopt the same policy (Mooney, 2001). There is also research suggesting that policy entrepreneurs may use the fact that a neighboring state has adopted a new policy and, to further their own political career, play up the positive aspects of the policy in the hope that their state will also adopt the policy (Kingdon, 2003; Mooney, 2001).

This concept of shared learning among similar types of states and neighboring states is a key component of policy diffusion theory (Grossback, Nicholson-Crotty & Peterson, 2004, citing Rogers, 1995), although Grossback et al. emphasize the similar ideology between states rather than proximity (2004, 522). What Grossback et al. argue is that the neighboring state theory ignores the fact that state actors can learn about policies through other means than communication solely among neighboring states. Technology, media and other government agencies have enabled state actors to meet, socialize and strategize through various organizations and publications that facilitate the sharing of information that in the past could only be acquired close to home (524).

A newer model of policy diffusion offers a metaphor of innovative policy as a virus and uses an epidemiological approach to explain how new policies spread and “infect” other states (Boushey, 2010). This approach is useful because previous studies have not been able to tell us why some policies – Amber Alerts, for example – diffuse rapidly and others take a more traditionally understood method of a slower, yet steady incremental adoption process, such as the lottery example (Boushey, p. 3). Walker’s early work showed that innovation in the states comes from neighboring states, and that wealthier and more “competitive” states were the earliest adopters (1969); and an incremental approach to policy adoption is generally accepted (Lindblom & Woodhouse, 1993). Using this new approach does not discard the historical approaches but does add an important element that is critical when examining how states innovate and explains why some policies such as the Amber Alert spread faster than the policy of establishing state lotteries.

What the diffusion literature informs for this study is not only how new policies such as the lottery policy spread across the country, but how states learn from what other states are implementing. When one state is having continual budget crises, it is not unusual for the state's leaders and stakeholders to monitor how other states have solved similar problems. When non-lottery states have campaigns to get a state lottery on the ballot, it is not unusual for proponents to cite the revenue amounts of similarly sized states in order to show how the lottery could solve budget shortfalls and could infuse money into worthy projects. States are influenced by each other and even the choice of which beneficiaries to designate is learned from the experiences of other states (Goodman, 1995). This research informs this study that is focused on the two primary beneficiary funds receiving lottery profits. The success of a nearby state plays heavily in the policy adoption process and gaining stakeholder support. This literature explains how Nebraskans were likely influenced into campaigning for and approving its state lottery and also sets the stage for how the Nebraska policy was implemented and how stakeholders chose to create the beneficiary funds.

Policy Implementation. Fundamental to explaining the evolution of the Nebraska lottery beneficiary funds is an understanding of the political process that occurs after a new policy is adopted. Once policies are adopted, the study of implementation is paramount to our understanding of why some policies achieve the desired goal and others do not. We know that even under the best circumstances where the money for a policy is available and all of the political groups and stakeholder are in favor of the policy, a policy can fail to be implemented (Pressman & Wildavsky, 1973). From the time a



policy is adopted and then becomes translated into rules and regulations by the bureaucracy, if the number of decision points along the way is too high – even for a popular program – this can predict its demise (ibid). But implementation, the long process that includes the translation of laws into rules – putting policies into practice – is more than just launching a new policy, it is also a process that takes place over time and involves change and learning (Pressman & Wildavsky 1984; Lester & Goggin 1998), which is an important piece in this study of the two lottery beneficiary funds as each has been changed significantly since the law was enacted by voters in November 1992 (See Appendices B and C). The literature on implementation didn't begin with Pressman and Wildavsky in the 1970s as is commonly believed, but began with doctoral students in the early 1930s (Saetren, 2005). Early areas of study, Saetren notes, were international politics and education. As Saetren's study revealed, education has been an interest of implementation scholars since the earliest studies in the field and continues throughout the current generation of implementation studies (ibid).

Policy is influenced by different groups of people and stakeholders at multiple points in the implementation process. Mazmanian and Sabatier developed a key theory in 1983 using “perspectives” (Smith & Larimer, 2009). They argued that all programs and policies could be viewed from three different implementation perspectives: the “center” consists of the policy makers, the “periphery” includes those whose job it is to translate the policy into action, and the “target group” consists of the people on the receiving end of the policy, the public it affects (p. 164). For this theory, the researchers were center-biased and used policy objectives as the dependent variable, not the behavior of the

periphery. The theory was outcome-based and focused on independent variables such as “tractability of the problem” to assess implementation, not the actions of individuals.

This perspective from the center, or top, was critiqued by later studies (Smith and Larimer, 2009, citing Lipsky, p. 167) that advocated a bottom-up approach using either the target group or the periphery as the starting point. The bottom-up approach offered by Lipsky takes into account the human element of political environments and how people’s interactions and behavior influence the way a policy may – or may not – be implemented. These approaches are important to consider when applying them to the Nebraska lottery policy and the process of how the policy was translated, and retranslated, into law. It is especially useful in explaining subsequent changes to the Nebraska lottery law, and how lottery proceeds were allocated to the state’s two primary lottery beneficiary funds. This study will help fill a gap in the policy implementation literature that simply regards any enacted policy that is implemented as an “implementation success,” by suggesting that implementation success be redefined as an established program that is durable and fulfills the promise of the enacted policy.

Stakeholder Theory and Practice. The influence of stakeholders has become the subject of multi-disciplinary research in the past decade both in the policy arena, in studies of power and cooperation, and in the field of project management (Bourne and Walker 2005). Stakeholders are being included in the decision-making process in policy areas such as the environment where public buy-in is key to successful change. This is a complete reversal from relying on state decision-makers to do this work on their behalf. The driving forces in creating the Nebraska lottery beneficiary fund structures were the

two groups of stakeholders that worked separately to achieve the goal of implementing the lottery policy.

There clearly is no singularly agreed upon definition for the term “stakeholder” as discovered throughout the literature on stakeholder theory. In some cases, the term can be used broadly to describe any person or group affected by a company or entity (Freeman, Harrison, Wicks, Parmar, & de Colle, 2010, p. 26). Stakeholder groups can also be thought of in terms of the degree to which they are affected, or can affect, a company or agency, such as primary and secondary stakeholders (Freeman, Harrison, Wicks, Parmar, & de Colle). Some stakeholders are more vocal and integral to the earlier stages of a company’s or agency’s growth than other stakeholders who may become more visible and meaningful to an organization later in its development (Phillips, Freeman, & Wicks, 2003). Because of these differing perspectives in the literature about how to define a stakeholder, the following definition will be used for the purposes of this study: For any person or organization that expressed an interest in and/or a desire to be recognized as a beneficiary of certain lottery beneficiary funds or who could in any way benefit from those funds either personally, professionally, recreationally or indirectly, that person for this analysis is considered a stakeholder. This definition incorporates the most inclusive definitions as detailed throughout Bryson’s work (2003) and is so broad it effectively includes the entire population of the state of Nebraska. Obviously, not all stakeholders had the same level of intensity regarding these funds nor was the anticipated individual benefit for the stakeholders of each group to be experienced in the same way. Some of these stakeholders were heavily involved in the process while others were only

minimally engaged. A few key stakeholders were intimately involved in crafting the legislation and developing the criteria for establishing the funds. Stakeholders also had different experiences in working through the political process such as administrators who understand the system from working in the state Department of Education, or the other experience such as an executive with a non-profit environmental group accustomed to fighting the system to protect the organization's interests (Respondent interviews, 2011). The interconnections between stakeholders within each group should also play a role in the outcomes where stakeholders have high levels of involvement with policy translation. One group of researchers likened stakeholders to Madison's factions in Federalist 10 (Hamilton, Jay, & Madison, 2006) and presented the idea that stakeholders, like factions, would monitor each other and management (Phillips, Freeman, & Wicks, 2003).

What the stakeholder theory literature contains are several management tools that company or agency principals can utilize to manage stakeholder involvement by assessing specific features and traits of stakeholders that could either help or hinder the policy implementation process. Whether state policy officials utilized these management tools is not the issue for this research. However, what can be learned from the literature available is that certain qualities inherent in individual stakeholders will have a dramatic effect on the outcome of any implementation process (Meltzer, 1972) and that if analyzed early enough in the process, negative effects can be mitigated and positive effects can be exploited (Bourne & Walker, 2005). Today, policy managers have access to software to assist in stakeholder analysis and management so that these relationships can be best utilized for a company's, or an agency's, need (Bourne & Walker). This new,

preemptive focus by policy managers to prevent stakeholder personalities and traits from negatively impacting the policy implementation process is integral to this study. General stakeholder traits were culled from Bourne & Walker (2005) and Meltsner (1972) and then refined for this study.

Meltsner writes that policy analysts must look at the people involved and look for qualities or traits that differentiate them from one another in order to fully assess the opposing camps and potential problems an issue will create (Meltsner). For this study, the two groups are easily split into Education supporters and Environmental supporters. Yet, so that a full examination of how these different stakeholder groups worked out the implementation of the lottery policy, further differentiation of the stakeholder members needed to be created to accentuate the disparities between the two stakeholder groups, as Meltsner advises. Meltsner uses several categories to make these comparisons, the first he refers to as motive, drive and goals (862) that should be noted for each person involved. The motivations of the environmental stakeholders were different from the motivations of the educational stakeholders.

Meltsner also looks at individuals' beliefs and values in assessing their political involvement in addition to their resources, such as access to money, their job, their position in the community, information or their skill at lobbying (862). Meltsner encourages testing out new categories of differentiating qualities even though they may be in error, in order to challenge analysts to think creatively when attempting to predict how stakeholders will act and react. Taking these cues from Meltsner, the following variables were generated for the hypotheses in this study:

- (a) political knowledge
- (b) state vs. nonstate employment status
- (c) motivated by a primary- or secondary-interest influenced by trust level
- (d) degree of financial and political resources

Meltsner gives analysts the freedom to choose variables that may be incorrect, but encourages this creativity in order to push the analyst to find those underlying qualities that will best differentiate the participants and allow for a more insightful and possibly more predictive outcome (ibid). Furthermore, these identifiers are useful not only in preparing for probable stakeholder involvement, as the new research suggests, but in more common ex post facto analyses as well conducted regularly by policy analysts (Bardach, 2009).

Stakeholders for this research are both individuals and groups. The research on stakeholder groups, such as those devoted to environmental causes, focuses generally on why people join these groups and identify with the group, and how to predict whether a group of stakeholders will get involved in a particular cause (Rowley & Moldoveanu, 2003). This rational choice, interest-based assessment of activism is termed “interest intensity” and uses the degree of discontent and level of urgency to describe the driving quality of the stakeholder groups (Rowley & Moldoveanu). Interest intensity is pertinent to this research and is used essentially in explaining how the environmental groups’ involvement had a dramatic effect on how the environmental beneficiary fund in Nebraska was eventually structured. For hunters, fishing enthusiasts and outdoors recreational advocates, along with multiple non-profit organizations representing differing environmental interests, the promise of millions of dollars each year being available to enhance these interests motivated both the individuals and the large non-

profit organizations to get involved in the political process – although not necessarily in a cooperative manner among themselves – and work toward ensuring the money was going to be protected for environmental interests (Respondent Interviews, 2011).

As individuals, the stakeholders in this study came from all walks of life. On the education side, stakeholders may have been employed with the Nebraska Department of Education or have been employed at the school district level as an administrator or teacher. Parents, students and employers were also categorized as stakeholders in education as each benefitted from an educated population either in personal enrichment or through economic gain. The environmental stakeholders also came from a range of backgrounds including state employees or appointed officials in the state's Game and Parks Commission, the agency that was attached to administratively support the Environmental Trust and on the receiving end of a large portion of the Trust's grants; organizations such as Ducks Unlimited with 12,125 dues-paying members in Nebraska (Ducks Unlimited, 2011) committed to maintaining lands and fowl populations for hunting; Natural Resource Districts throughout the state that required funds to improve and maintain land and waterways; and residents and visitors who used land and water sources in the state recreationally for fishing, hunting and bird watching; or those economically tied to the businesses of farming and ranching. Other involved membership groups were solely concerned with conservation and included companies or organizations promoting recycling or other efforts to offset the negative impacts of humans on the environment. Some of these groups had individuals within their ranks who are members, even dues-paying members, of more than one group or who are

stakeholders for more than one issue. For example, those who hunt are said to be some of the largest financial contributors to conservation efforts (Nebraska Environmental Trust, 2010), however, one cannot extrapolate the desire for hunting rights from the monetary contributions paid to conservation efforts in exchange for the permits to hunt. Most hunters have accepted this trade-off as the cost of the hobby and appear to enjoy the reputation of being known as conservationists. Yet, if not required to pay these conservation fees, these funds would most likely dry up as it seems to reason that most hunters would more than likely forego paying these fees if not required.

Lottery Policy. In November 1992, Nebraska voters approved a state Constitutional amendment to establish the Nebraska Lottery as a division of the Department of Revenue (Nebraska State Auditor, 2010) with the Lottery Director reporting to the state Tax Commissioner. The election that year was overshadowed by a state legislator term limit bill, however, with respect to the lottery issue, two ballot question committees formed – one in favor of the amendment and one opposed – each filing required organizational paperwork with the state’s Accountability and Disclosure office (Nebraska Accountability and Disclosure Commission, 1992) and raising at least a minimum level of funding to require the state filing.

While the political process of how the lottery policy was implemented and the beneficiary funds established will be discussed further in the next chapter, the challenge in studying the lottery policy is hampered by the lack of transparency in its accounting and difficulty in tracking complex legislative changes. Throughout this study, funding designations are identified with statute-enacted percentages of lottery profits, however,



due to the inability to track the money once it has been transferred out of the lottery account the numbers provided here are based on legislated changes publicized through the public record, official comments in newspaper articles or from Lottery transfers publicized on the Internet. Case in point, the legislated diversions from fiscal years 2001-02 through 2006-07 described earlier and detailed in Appendix E that transferred more than \$48 million to the General Fund is an estimate based upon the amounts legislated for transfer and comparing those to the actual Lottery money added to the account during that quarter.

Additionally, Appendix B provides a chronology of the state lottery policy while Appendix C details the extensive changes made to the beneficiary allocations and points in time when large sums were diverted from the education fund into the general fund (Appendices B and C). Appendix D provides a compilation of the Nebraska Revised Statutes that created the State Lottery and the Environmental Trust along with the numerous legislative bills that have altered the policy since its inception (Appendix D).

Four lottery beneficiaries were designated in the original legislation, a group of bills passed by the Legislature prior to the state's voters approving the lottery: education (LB 849), the environment (LB 1257), gambling addiction education and help (LB 849); and a temporary allocation to a solid waste cleanup fund that incorporated a 1997 sunset clause (Nebraska Legislature, 1991). The percentage of the beneficiary portion of lottery sales, 25% percent of total lottery sales to be set-aside for these funds, was also established by the legislation that both preceded and followed the voter's approval of the

constitutional amendment (Table 2.1) and has changed through subsequent legislation (Appendix C).

**Table 2.1 Lottery Beneficiary Fund Allocations at Adoption, November 1992**

<b>Beneficiary</b>	<b>% of Lottery Set-Aside</b>	<b>Fund</b>
Education	49.5%	Education Innovation Fund
Environment	25%	Environmental Trust Fund
Solid Waste	24.5%	Landfill Closure Assistance Fund (1997 sunset clause reverted this allocation to the Environmental Trust Fund)
Gamblers Assistance	1%	

Sources: Nebraska Lottery (2010) and Nebraska Statutes (2010) see Appendices B and C.

As noted above, during the 2001-02 fiscal year, the Nebraska Legislature began diverting funds from the Education Innovation Fund to the state's General Fund to offset budget shortfalls amounting to more than \$48 million by the end of the 2006-07 fiscal year, an average of more than \$8 million each year (see Appendices B, C and E). When created with the Lottery Act, the Education Innovation Fund was dedicated 100% to providing both large grants and "minigrants" to Nebraska K-12 education programs so that innovative concepts and pilot programs could be tested and, if successful and practical, could be incorporated in schools throughout the state to improve public education and learning (Nebraska Legislature, 1991).

The first upheaval to the Education Innovation Fund came April 8, 1998, with the passage of LB 1228, which for the first time provided percentages of the fund to be applied not only to the innovative grants, but allocated funds for two new programs as well (Nebraska Legislature, 1998). The Legislature directed 10% of the fund to be used

for the Mentor Teacher Program, which assigns an experienced teacher to each first-year teacher to help their transition into teaching (ibid). The second new allocation designated 70% of the fund to be used for the Quality Education Accountability Act, which provided funds to Nebraska schools meeting a set of goals that would indicate they are providing an excellent learning environment and achieving good results (ibid). The remaining 20% of the Education Innovation Fund was available for the innovative grants as before (ibid). (For more detailed information about this and other legislative changes to the fund, see Appendices B, C and E.)

On May 29, 2003, the Nebraska Scholarship Act was passed with LB 574, and through it, the Nebraska Scholarship Fund, a new lottery beneficiary to provide need-based scholarships to Nebraska undergraduates attending Nebraska colleges and universities, was created (Nebraska Legislature, 2003). Note, these are not the forgivable loans that later became available to future teachers. Initially, the Nebraska Scholarship Fund split the 49.5% of lottery proceeds for education money equally with the Education Innovation Fund, giving each a 24.75% share of the education funds. However, as part of the legislation establishing the Nebraska Scholarship Fund, the Legislature limited the scholarships as follows: for fiscal years 2003-04 and 2004-05, \$2 million would be available for scholarships and the remainder of the Fund would be transferred to the General Fund. Quarterly transfers made into the new Fund during fiscal year 2003-04 (September through June) amounted to \$4,768,764 (Nebraska Lottery, 2010). After allowing for the \$2 million in scholarships, a diversion of \$2,768,764 in education funds was incorporated into the General Fund (Appendix E). Similarly, during the following

fiscal year, lottery transfers to the Nebraska Scholarship Fund totaled \$5,100,683, and again the scholarships were limited to \$2 million of that amount, transferring more than \$3.1 million to the state's General Fund (ibid). In the next fiscal year, the Legislature allocated \$2.5 million for scholarships. Receipts in the Fund totaled \$6,030,172, giving the General Fund a transfer of \$3,530,172 (ibid). Although intended to benefit the high school graduates of the state, it appears that at least during its first three fiscal years, the Nebraska Scholarship Fund generated more revenue for the state's General Fund (59%) than it did for infusing funds for college scholarships into the state's colleges and universities (41%). After fiscal year 2005-06, the statute directs all money in the fund to be used toward scholarships and other provisions in the Act (Nebraska Legislature, 2003).

Through a state Constitutional change approved by voters in 2004, which added a new beneficiary fund totaling 10% for the Nebraska State Fair, and further legislative changes in 2006, the funds have undergone substantial alterations in the percentages transferred and how those funds are used or allocated (Nebraska Revised Statutes §9-812, see also Legislative Bill 1208, which altered the allocation of lottery proceeds to education, 2006) and Appendix C details the legislative changes that decreased the percentage of lottery ticket sales designated for the beneficiary funds from 25% to as low as 22%, making less lottery profits available to be distributed among the beneficiaries (Appendix C).

As of 2010, the scholarship fund was renamed to better reflect the type of grants being offered and the Fund percentages were set as follows (Table 2.2, below):

**Table 2.2 Current Lottery Beneficiary Fund Allocations (as of 2011)**

<b>Beneficiary</b>	<b>% of Lottery Set-Aside</b>	<b>Fund/Stipulations</b>
Education	19.75% 24.75% (44.5%)	Education Innovation Fund and Nebraska Opportunity Grant/Scholarship Fund
Environment	44.5%	Environmental Trust Fund
State Fair	10%	Requires matching funds raised by host city.
Gamblers Support	1%	First \$500,000 in profits plus 1%.

Note: The Nebraska Opportunity Grant (formerly named the Nebraska Scholarship Fund) makes need-based scholarships available to Nebraska high school graduates attending colleges and universities in Nebraska. Forgivable loans for future teachers are awarded through the Attracting Excellence to Teaching and Enhancing Education in Teaching programs, both funded through the Education Innovation Fund allocations only.

Sources: Nebraska Lottery (2010), Nebraska Revised Statutes (2010).

According to the Nebraska Lottery Web site, the quarterly transfers of funds have been routinely made since 1993, and have amounted to substantial sums for each of these categories (see Table 2.3, below), yet because the lottery officials only make these transfers and then Legislative changes alter the route of the money, it is a less than accurate picture of how the lottery has benefitted the beneficiaries as it was intended. As of the December 2011, quarterly transfer, the Nebraska Lottery Web site lists a total of \$139,461,879 in transfers made to the Education Innovation Fund since the Lottery was established (Nebraska Lottery 2012). Transfers made to the Scholarship/Opportunity Fund (created in 2003, to provide need-based funds to Nebraska students attending Nebraska colleges and universities) have totaled \$49,131,635. From the previous discussion, however, we can see how these totals misrepresent the contribution the Lottery has had on education since the later diversions are not publicized. Appendices B, C and E contain more in-depth information on these funds, historical transfers, and the

numerous legislative bills that have changed the makeup of these funds along with the Constitutional change in 2004 that have all contributed to the dramatically altered allocation of these funds.

**Table 2.3 Lottery Transfers to Beneficiary Funds (not adjusted for inflation)**

<b>Nebraska Lottery Proceeds Transfer</b>	<b>Total for Beneficiaries</b>	<b>Education Innovation Fund</b>	<b>Scholarship Fund</b>	<b>Environmental Trust Fund</b>
1993	\$3,400,000	\$1,719,256	\$0	\$868,311
1994	\$15,500,000	\$7,745,345	\$0	\$3,911,791
1995	\$21,000,000	\$10,428,816	\$0	\$5,267,078
1996	\$20,200,000	\$10,056,312	\$0	\$5,078,946
1997	\$22,300,000	\$11,178,429	\$0	\$7,541,036
1998	\$18,900,000	\$9,444,993	\$0	\$9,444,994
1999	\$16,400,000	\$8,180,786	\$0	\$8,180,785
2000	\$17,800,000	\$8,530,454	\$0	\$8,530,453
2001	\$17,800,000	\$8,606,686	\$0	\$8,606,685
2002	\$18,200,000	\$8,781,258	\$0	\$8,781,258
2003	\$21,400,000	\$8,066,966	\$2,268,187	\$10,334,153
2004	\$20,600,000	\$4,977,241	\$4,977,241	\$9,954,483
2005	\$24,300,000	\$5,344,963	\$5,344,963	\$10,689,926
2006	\$28,900,000	\$6,013,156	\$6,697,694	\$12,710,849
2007	\$29,200,000	\$5,717,519	\$7,164,992	\$10,201,930
2008	\$30,500,000	\$5,965,609	\$7,475,889	\$13,441,497
2009	\$30,700,000	\$5,984,828	\$7,499,973	\$13,484,800
2010	\$31,500,000	\$6,146,596	\$7,702,696	\$13,849,293
<b>Totals to Date</b>	<b>\$388,600,000</b>	<b>\$132,889,213</b>	<b>\$49,131,635</b>	<b>\$160,878,268</b>

Note: Historical transfers made public by the Nebraska Lottery reflect only the transfers made to the beneficiary funds, and does not reflect the actual dollar amounts available for beneficiaries after legislative diversions to the state's General Fund or other projects.

Source: Nebraska Lottery (2010, 2011)

For example, the Constitutional change approved by voters in 2004 not only added the State Fair as one of the lottery beneficiaries, it also put the language in the state Constitution that the state Legislature directs how the education funds are to be allocated (Nebraska Secretary of State, 2004). This new discretion allows the state Legislature to incorporate the lottery education funds into the state's allocation to schools, thus reducing the state's contribution, if it so chooses. Changing the language of the state Constitution is certainly more difficult than a legislative statute for making future changes if constituents are dissatisfied with results. The effect of these statutory changes since 2002, and Constitutional changes since 2004 in particular, have been disastrous for K-12 education in Nebraska. While the fund was initially used exclusively for innovative

educational grants to K-12 schools (see Appendix B for permissible projects), legislative changes altered this. After the education fund allocations changed in 2003, splitting the revenues between the Education Innovation Fund (19.75%) that was earmarked for K-12, but was eventually providing funds for new teacher college loans, and the Nebraska Opportunity Grant/Scholarship Fund (24.75%) for need-based college scholarships, the money devoted to K-12 students was considerably less than originally anticipated. After the State Fair was added as a beneficiary in 2004, the equal allocation to the environmental fund and the education fund was reduced from 49.5% of lottery profits to 44.5% (Nebraska Lottery, 2010; Nebraska Revised Statutes, 2011). When the college scholarship fund (grants for Nebraska high school graduates based only on need) was added to the education beneficiaries, lottery funds available for K-12 were reduced again by 55.6% since this new scholarship money was directed to, and administered by, the state's colleges and universities. Opponents' fear in 1992 that the Legislature would be able to subsume lottery funds and use the money to replace state aid to K-12 schools has quietly materialized now that the Legislature gained complete authority over the educational funds from the Constitutional amendment passed in 2004 (Nebraska Secretary of State, 2011) and have scrapped innovative grants altogether (see Appendix B). How this was allowed to happen to the education funds yet not with the Environmental Trust fund is due to how the two beneficiary funds were initially established, which left the environmental fund better – although not completely – protected from the Legislature than the education fund. In essence, what has happened to these so-called “additional” funds for education is the realization of the worst-case



scenario feared by those who opposed creating the lottery back in 1992 and now mirrors the experience of many states that operate lotteries under the banner of helping educate the state's children (Allen, 1991).

What makes the Nebraska case of particular importance, from a policy implementation standpoint, is that the environmental funds have to date not met nearly the same fate because the fund was initially set up through a legislative act establishing the Nebraska Environmental Trust as an executive branch state agency connected administratively to the Nebraska Game and Parks Commission, yet operating autonomously (Nebraska Legislature, 1992). Incidentally, the state Legislature in February 2011 attempted to circumvent the Environmental Trust with proposed legislation, LB 229, to allocate \$7 million from the trust annually for the next 11 years to fund a water issue that is the state's responsibility to fund (Duggan, 2011). In addition to LB 229, another state senator introduced a constitutional amendment that would end the Environmental Trust and transfer the Fund's assets to other state interests, yet both of these attempts failed (Duggan, 2011). Thus, while the funds for education are currently distributed at the sole discretion of the Legislature, the Environmental Trust funds are less fungible. It is to the Environmental Trust's advantage that the Legislature is unsure whether a Constitutional amendment would be required to take control of the Funds' assets.

The Nebraska Lottery policy is distinguished from other states in that it has these two primary beneficiaries that, when approved by the state's voters in November 1992, were to be funded with equal portions of the profits (Nebraska Revised Statutes §9-801-

841), yet the composition of the groups and how the funds were to be distributed were not established in the same manner. This area is covered extensively in Chapter 3.

By the time Nebraskans approved the lottery in 1992, a majority of other states were already in the lottery business and the issue had long been “legitimized” as a bona fide revenue-generating method for states in lieu of raising taxes (Jensen, 2003). As new policies become legitimized, the likelihood of adoption by most states is increased (Jensen) because legitimization means that the proposed policy conforms to society’s construct of norms and values (Suchman, 1995). The research also explains how those beliefs are changed by framing and symbols (Pierce & Miller, 2004) in order to increase the chance that a state will adopt a new law. The Nebraska Lottery policy follows the expectation provided by the research based upon the experiences of other states.

Nebraska’s designation of education and the environment as the two primary beneficiaries followed typical patterns of lottery adoption as reviewed in the literature. As one researcher noted, the popular lottery beneficiary categories are the three “Big E’s: education, environment and economic development” (Goodman, 1995, p. 144). As Goodman and others observed, when states are courting voters and selling the lottery as a way to solve budgetary shortfalls without raising taxes, establishing beneficiaries with high symbolic value that most people agree are worthy causes further ensures that electors will approve to establish a state-operated lottery (Goodman, 1995; Pierce & Miller, 2004; Gribben & Bean, 2005; Nibert, 2000).

Lottery Effects on Future School Funding. Earmarked funds in state budgets have been widely studied and there are even specific studies that have examined the effect on

state and education budgets from having lottery proceeds earmarked broadly for education (Novarro, 2002; Goodman, 1995; Gunter, Coble & McLaughlin, 2000). While the studies seem to contradict each other, each piece of research examines different aspects of this funding mechanism. By far, education is the area most often designated by states as the beneficiary of lottery profits (Novarro, 2002, p. 3) and these designations have been legislatively changed post-adoption by nearly all states with lotteries (27). One researcher notes that while New Hampshire was not only the first state-operated lottery, it was also the first to designate education as the beneficiary of proceeds (Borg, Mason, & Shapiro, 1991). Even more important, the reason for New Hampshire's designation of lottery profits for education was not to increase the money spent on education, but to decrease the state's contribution toward education and control continually increasing property taxes (Monk & Brent, 1997). This is not the norm, however. As lottery policy spread across the country, it became more common to establish beneficiaries where the state's lottery profits were earmarked for specific uses thereby adding money to the budgeted item, not replacing state funds. What has also become common, unfortunately, is that while most lotteries earmark funds for specific purposes at the outset of the policy, several years later these funds eventually become subsumed into each state's general fund (Gribben & Bean 2005).

Novarro (2002) found that education earmarks are anything but insignificant, noting that a state increased its educational spending by \$0.36 for every one dollar in earmarked profits. That spending increased to \$0.60 more than every dollar earmarked to a non-educational expense (3). Novarro's critique of previous studies, that show states

actually decreased educational spending after a lottery adoption, rests on the research models that did not use non-lottery states as controls to account for trends in decreased spending on education overall that she says could possibly skew the single-state studies (4). Another control Novarro used was to account for the actual costs of operating the lottery, which, she says, other studies did not consider. Because higher lottery operating costs will lower the amount of revenue available for beneficiaries, Novarro considered this an area her study needed to incorporate.

Contrary to Novarro's work, other studies show that even with lottery proceeds earmarked for education, the amount of state money actually allocated to education tends to be replaced by lottery funds, not increased because of them (Gribben & Bean, 2005, p. 352). Monies, in the Illinois example used by Gribben and Bean, were redirected by the legislature on more than one occasion and the researchers suggest that earmarking funds for education is a political tactic to make the lottery more palatable to groups opposed to approving a state lottery (360). This same conclusion was reached in a 1984 study, stating that lottery profits added to state education budgets were met with proportionately reduced general fund allocations to education (Thomas & Webb, 1984), showing very little had changed in two decades.

In a study comparing school funding by states with education lotteries with non-education lottery states, the concern that lottery funds are too easily subsumed by states' general funds isn't without warrant and the researchers conclude that so-called education lotteries have done more damage to education than good (Borg, Mason, & Shapiro, 1991, p. 47). Additionally, research by Miller and Pierce (Miller & Pierce, 1997) essentially

calling state lotteries a “hoax,” was later supported by a 50-state and 20 years of data points in a time-series study that showed education across the country was not enhanced by the addition of lottery revenue funds (Stanley & French, 2003). A further argument in the case against lottery money earmarked for education is that the largest group of lottery players is comprised of low-income minorities with the lowest levels of education that, as a group, are not benefitting proportionately from these beneficiary funds (Bowden & Elrod, 2004).

The case of Georgia is important when considering the effect of lottery funds on education. When the lottery was enacted in Georgia in 1993, the law established HOPE (Helping Outstanding Pupils Educationally) and a pre-kindergarten program, neither of which existed prior to the state’s lottery act (Rubinstein, 2003) and both are funded exclusively by lottery proceeds (Rubenstein, 2003; McCrary & Condrey, 2003). Several studies cite the Georgia lottery as being the rare case in that it has actually benefitted education and has maintained wide support as a public policy (McCrary & Condrey, 2003; Rubenstein, 2003). One reason offered for the widespread support is the transparency of the lottery fund spending in Georgia that, unlike some states, does not deposit funds into the state’s general fund and then divert monies in equal portions into other accounts (McCrary & Condrey, 2003; Borg, Mason & Shapiro, 1991). In Georgia, the lottery law established HOPE, consisting of four programs that only exist through lottery funding and all of the lottery profits are transferred to those educational programs. This transparency mentioned above in lottery operation is unique to Georgia. In most lottery states, including Nebraska, numerous funds exist and transfers in and out of

accounts are daunting to track. When state legislatures divert funds, often lottery funds are first credited to the beneficiary accounts and then the legislature directs an amount to be removed from the beneficiary account and transferred to either the state's general fund or the money is moved to a cash fund designated for a specific project. Both of these types of transfers took place in Nebraska as well as other states. For example, in North Carolina, the governor used \$50 million in lottery reserves to balance the 2008-09 budget and the following fiscal year diverted \$69 million in lottery proceeds dedicated to school construction to supplement the general fund (Vuke, 2010). In another example, the Wisconsin Governor in 1992, Tommy G. Thompson, diverted \$83 million of lottery proceeds to state aid for schools, but the move was deemed an illegal transfer by a district court because the lottery was implemented in Wisconsin to provide direct property tax relief, not provide directly for schools (Walters & Shively, 1992).

While the proceeds from a lottery can be lucrative for even smaller states, the costs to operate one can also take a significant chunk out of the profits as pointed out by Novarro's (2002) study cited earlier. Because Nebraska's population is low, its administrative costs for providing lottery games are quite high when compared to other, more densely populated, states (McCrary and Condrey, 2003, p. 697). In fiscal year 1999, Nebraska's costs as a percentage of lottery sales was greater than 15% compared to Texas, California and Georgia, all of which were slightly below the national average of 8.23% and second highest to Montana which exceeded 20% (697). One controversial lottery operating expense is advertising and promotion, which nationally averaged 1.4%

of total lottery sales revenue yet ranged in 1989 from 0.4% up to 9.1% (Borg, Mason, & Shapiro, 1991, p. 5).

As shown here, the literature that informs this study is both broad and highly relevant to the study of how lottery policy spread through the country, was adopted by Nebraska and then how the Lottery Act was translated into law and implemented. The gap in the literature that this study can fill rests with Nebraska's two primary beneficiary funds.

By understanding the variables involved in how two separate funds were created so that one fund – the environmental fund – was better protected from legislative redirects than the education fund, our generalized understanding of how the use of lottery funds evolve is increased. Using this study, future policy makers and stakeholders should be able to create policies that incorporate the protections demanded by the environmental stakeholders while avoiding the decisions made in establishing the education fund if a long-term, durable institution is desired. However, if future policy makers wish to create funds that are easily modified, the example of the education funds structure would be most helpful. For example, beneficiary funds are established for numerous reasons and are not limited to lottery profits. Groups faced with negotiating how a beneficiary fund is created and how the type of fund, and the legislation enacted around it, determines future vulnerability can also utilize this study. For example, the sale of a public hospital can result in a designated fund to benefit a specific municipal district for health-related purposes (e.g., Beach Cities Health District, Redondo Beach, California). Learning from the Nebraska example can help real people protect millions of dollars.

On the basis of the review of the general literature and the specific case of Nebraska, it is clear that lottery funds are routinely diverted from their original purposes, that the intended beneficiary of these funds (education) often loses out, that other beneficiaries (such as the environment) seem to be better insulated from these changes, that this better protection seems to be tied to stakeholder characteristics such as political knowledge, their employment status, what motivation stakeholders and their connection to financial and political resources.



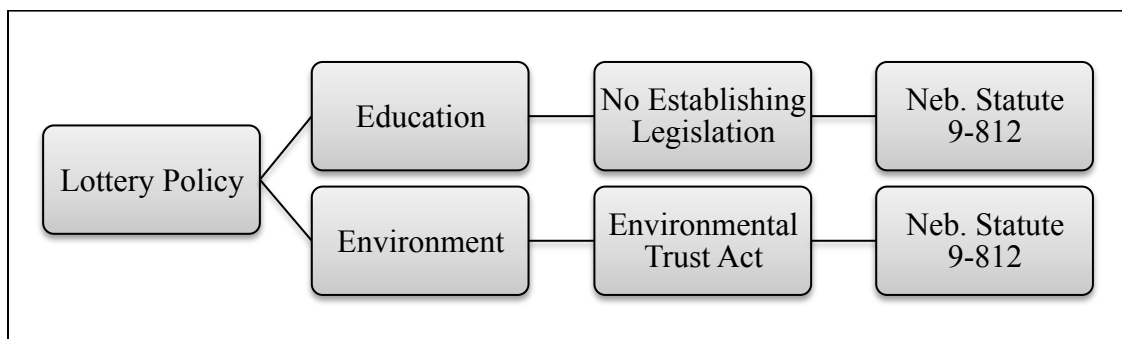
### **Chapter 3 – Lottery Beneficiary Fund Study**

For this analysis, research was conducted on the implementation of the Lottery Act and establishment of the two primary beneficiary funds in Nebraska.

Research Questions. The research questions for this project are: How are lottery beneficiary funds structured by stakeholders to protect a fund from future legislative money grabs or structured in a way that leaves the fund vulnerable? How did the decisions on beneficiary fund creation in Nebraska affect future school funding from lottery revenue?

Using Nebraska's two primary lottery beneficiary funds as the case study is useful because each was established at the same time from the same legislation yet each was structured differently. While on the surface, each Fund at the time of the Lottery Acts' approval appears to be similar: each had a designated group, either the Environmental Trust Board or the Excellence in Education Council, to award grants. However, the statutes enacting the Board and Council were completely different. For example, the Environmental Trust was created at the time of the Lottery Act, but through a separate piece of legislation that created a new state entity (Nebraska Legislature). No other statute created the education council but instead it was established along with the Lottery as a group appointed by the Governor (Nebraska Legislature, 1991).

Based on the literature review in the previous chapter, the reason why some lottery beneficiary funds are better insulated than others clearly seems to be tied to stakeholder characteristics and there are at least four potential explanations of how stakeholder characteristics lead to more or less insulation of these funds.



**Figure 3.1 Diagram of Progression From Policy to Nebraska Statutes** (Nebraska Rev. Statutes).

Hypotheses. For this study, the following hypotheses concerning the two primary Nebraska Lottery beneficiary funds were developed to test using the criteria established by Meltsner (1972):

- H<sub>1</sub> Beneficiary funds with more politically knowledgeable stakeholders will be better insulated from legislative redistributive efforts than funds with fewer politically knowledgeable stakeholders.
- H<sub>2</sub> Beneficiary funds with stakeholders who are primarily non-state employees will be better insulated from legislative redistributive efforts than funds with stakeholders employed by agencies or departments of the state.
- H<sub>3</sub> Beneficiary funds with stakeholders motivated by a primary interest<sup>1</sup> will be better insulated from legislative redistributive efforts than funds with stakeholders motivated by a secondary interest<sup>2</sup>.
- H<sub>4</sub> Beneficiary funds with stakeholders possessing greater amounts of financial and political resources will be better insulated from legislative redistributive efforts than funds with stakeholders possessing a lesser degree of financial and political resources.

Each hypothesis uses the term “better-insulated beneficiary funds” as the dependent variable, and circumstances of the sets of actors and agencies as the independent

<sup>1</sup> I use “primary interest” to describe stakeholders such as the environmental groups where members are involved because of a personal hobby or business such as hunting, fishing or farming that would benefit from the Fund.

<sup>2</sup> Similarly, I use the phrase “secondary interest” to describe the education stakeholders who are involved in a project that will benefit others such as K-12 students.

variables. Another way to convey this idea of insulation from legislative fund redirections is the phrase “more redistributive resistant.” Another term used in Hypothesis 1 is “politically knowledgeable.” In this research, this term is defined as individuals who are experienced with and understand how government operates, who know how to participate in policy decisions, the political process, and how to influence decision-makers either on their own or as an organized group of stakeholders.

Methodology. The method chosen for this research was face-to-face interviews with subjects who were involved in either the Lottery Act adoption, the implementation of the policy or worked for either of the beneficiary fund groups that were charged with administration of the funds. The decision to conduct each interview in person was determined to be the best method in order for the investigator to assess body language clues along with spoken responses (Walliman, 2005).

The mix of four respondents included politicians and experts rather than interested lay people and each interview was about an hour in length. Despite the small sample size, the individuals interviewed were each key players in the legislative and implementation process and each possessed a high level of historical memory of events, conversations and concerns that are not available through any other source. As one respondent noted, most documents associated with that timeframe have exceeded the state’s required retention period and have most likely been destroyed (Respondent A, 2011). Additionally, not everyone has a good memory and flawless recall for work-related issues that occurred nearly 20 years ago and at least two vital members of the process have died during the 20 years since the Lottery Act was passed and the policy

implemented. Others who were employed in departments or agencies within state government during that time are no longer working for the state as divisions were eliminated. These all are factors that need to be considered when studying older policies. In addition to the flaws in using an interview method to gather data (Fowler, 2009), there are limits to the pool of available subjects willing and able to be interviewed.

Participant Recruitment. To ensure that respondents for this study were key players in the lottery adoption and implementation of the lottery policy, a list of names was generated from either state documents or newspaper articles from the timeframe in question, 1991 and 1992. Additionally, in conversations with community members and newspaper reporters, other names were added to the list that included state employees who were involved yet in a less public role than would have been clear from the documents and news articles reviewed. Using Noy's (2009) "progressively intense forms of contact," I began with contacting each potential participant by email, then by phone and finally meeting in person (459).

During each interview, the snowball technique was used to fill gaps in the list of key players and to also confirm, by others suggesting their name without prompting, that each person interviewed was in fact one of the primary influencers of state policy at that time or worked closely with those individuals. In working with the University of Nebraska-Lincoln Institutional Review Board, permission was granted to provide potential interview subjects with two options: (1) to have their name and other identifying features such as current or past employer remain private and not be cited in the published study or (2) give permission to use their name and identifying information in the

published work. While three respondents agreed to give permission to publish their name, one did not. What did become clear throughout the interviews, and from utilizing the snowball technique, is that this core group of elites comprised a small number of people and that by identifying even one of them in the published study, the ability to conceal the identity of the respondent who opted to remain anonymous would be in jeopardy. Because of this concern, all of the identities of study respondents will remain confidential and each will be identified consistently as Respondent A, B, C and D, but only as long as the context does not easily identify the respondent. In that case, the generic term “respondent” will be used. The respondents represent the key policy managers of the lottery beneficiary implementation at the highest levels including both politically appointed and elected officials.

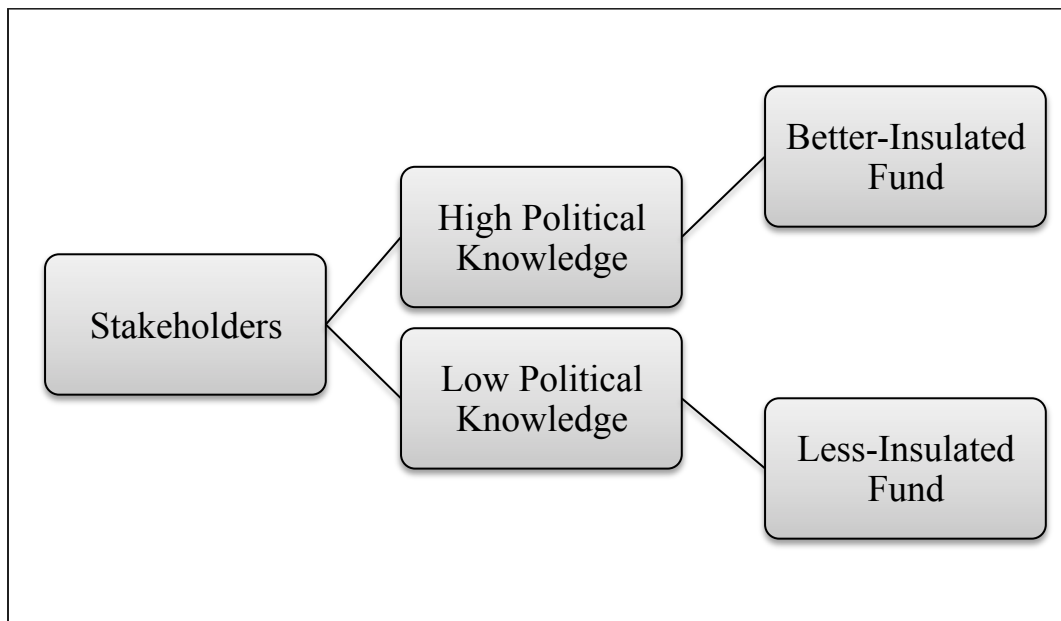
Data Collection. Each participant was interviewed in private using the same set of questions and probes (see Appendix F) and each was allowed to verbalize their thoughts and recollections uninterrupted. While the approach here was semi-structured (Walliman, 2005) each respondent interview was treated as an “elite interview” as described by Dexter (1970). Dexter characterizes elite interviews as allowing the respondent to decide what is relevant about the issue, to frame the problems in their own way and to permit the respondent to talk about the areas of the issue they feel are most important rather than accept the interviewer’s perspective (pp. 18-19). After each interview, hand-written notes were reviewed and additional notes were made for later reference (Walliman, 2005). None of the interviews were recorded in any other manner. I then noted similarities and differences in each of the interviews based upon the

questions posed and the answers offered by respondents and also noted where one respondent's answer filled in gaps of another respondent, which then provided a richer explanation of agency and legislative actions when implementing the Lottery Act.

Results and Discussion. The results of this research are a first-cut attempt to explain how lottery beneficiary funds in Nebraska were implemented differently for the education fund and the environment fund. What was apparent from the commonalities of descriptive words among the study participants was first that stakeholders could be categorized as either having a high level of political knowledge or a low level of political knowledge, and that these differences did influence how Nebraska legislators made decisions about how to establish the two funds, but not in the way anticipated. While having a high level of political knowledge can help a group achieve its goal, what was found here was that the education group was handicapped by the fact that most of its members were either state or school district employees each bound by strict policies against lobbying state officials (Respondents B and C, 2011).

Figure 3.2 (below) shows a simple diagram of the resulting types of fund based upon the political knowledge, or sophistication, of the two groups of stakeholders in Hypothesis 1 (Disconfirmed). What I expected to find was that the education group was more politically knowledgeable than the environmental group and utilized a more sophisticated level of political involvement because education stakeholders are well known to be politically savvy. What resulted from the interviews was that the null hypothesis was to be accepted instead. While these categories are simplified and do not take into account the large number of individuals involved in each stakeholder group, it is

a good conceptual tool to begin to extract the variables involved in how lottery beneficiary funds are implemented. Using the first diagram below, while I expected to see one group prevail because of the group having better political skills than the other, what actually occurred according to all respondents was that the education group was essentially the more politically knowledgeable, but what happened with the environmental group was characterized as a “rare moment” (Respondent Interviews, 2011) when the large number of contentious groups were in complete agreement about one thing: protecting the environmental funds. There was little agreement among the environmental stakeholders on how the grants should be awarded, but absolutely no wavering in the commitment to keeping the Legislature out of the fund. The education stakeholder group, however, was constrained by an inability to fully engage in a political process due to most stakeholders being employed either by a school district or the state Department of Education, and each having policies (Nebraska Professional Practices Commission) about employees’ personal involvement in lobbying the state (Respondents B and C, 2011).

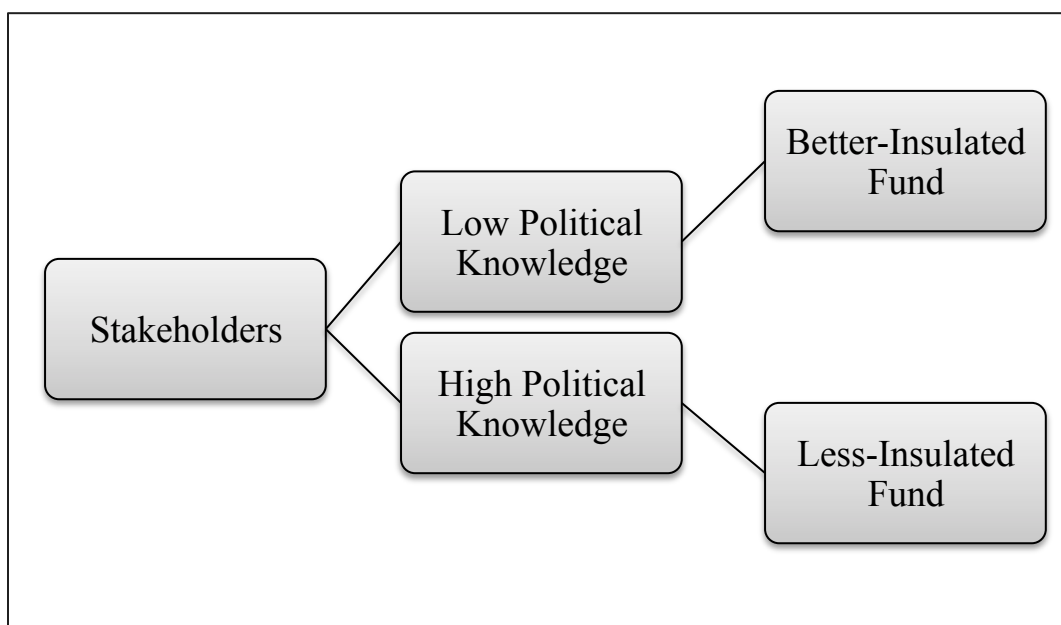


**Figure 3.2 Diagram of H<sub>1</sub> Stakeholder Political Knowledge and Resulting Fund**

In accepting the null for Hypothesis 1, it should be noted that for future research, investigators might look at the stakeholder groups' degree of alignment of purpose instead of political knowledge.



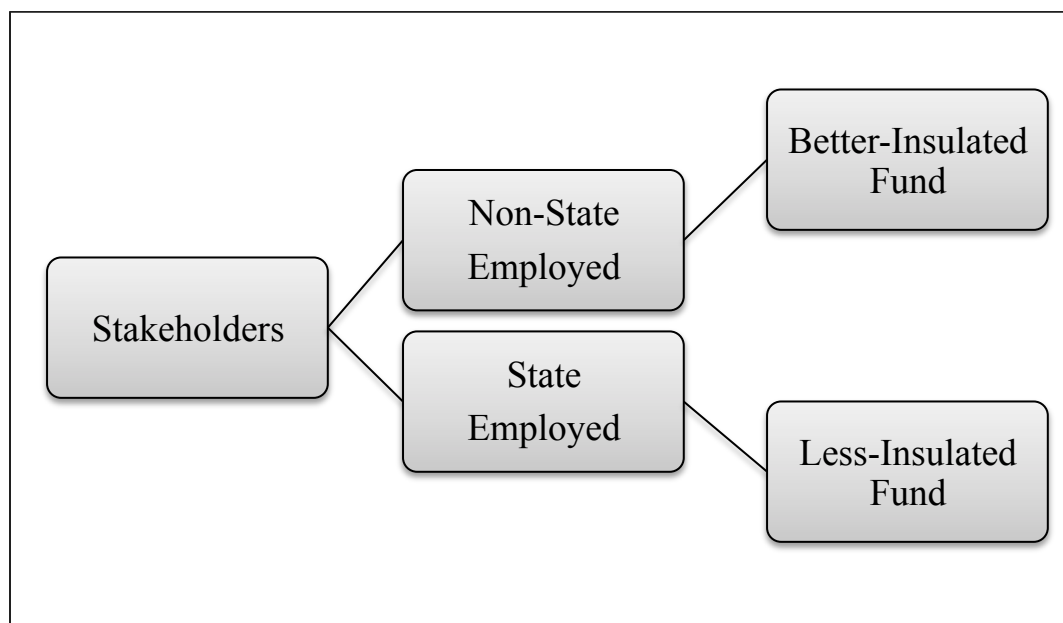
The revised figure for H<sub>1</sub> follows:



**Figure 3.2.1 Reflects the null hypothesis where the opposite effect took place.**

Hypothesis 2 (Confirmed). The next variable constructed in the types of stakeholders is the distinction between those who were primarily state employees and other groups whose members were generally not employed by the state because this was a key differential raised during interviews (Respondent Interviews, 2011). Figure 3.3 (below) repeats the simplified format already utilized to illustrate how this independent variable can affect the manner in which beneficiary funds were implemented in Nebraska. This variable is important because, according to those Respondents who were at some point employed by the state, a non-state employee has greater freedom to lobby and criticize state government than does a state employee (Respondents B and C, 2011), or a teacher employed by a local school district (Nebraska Professional Practices Commission). The Respondents used phrases such as “lack of freedom,” and “we didn’t have the ability,” in describing the restrictions that state employment placed on them during the

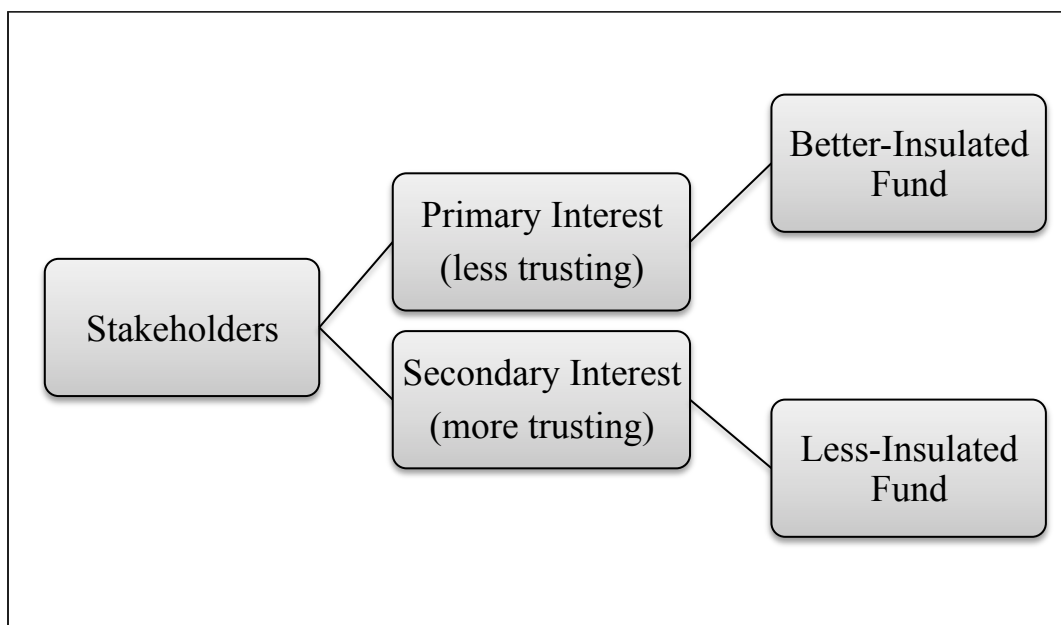
implementation process compared to stakeholders not employed by the state of Nebraska (Respondents B and C).



**Figure 3.3 Diagram of H<sub>2</sub> Stakeholder Role and Resulting Type of Fund**

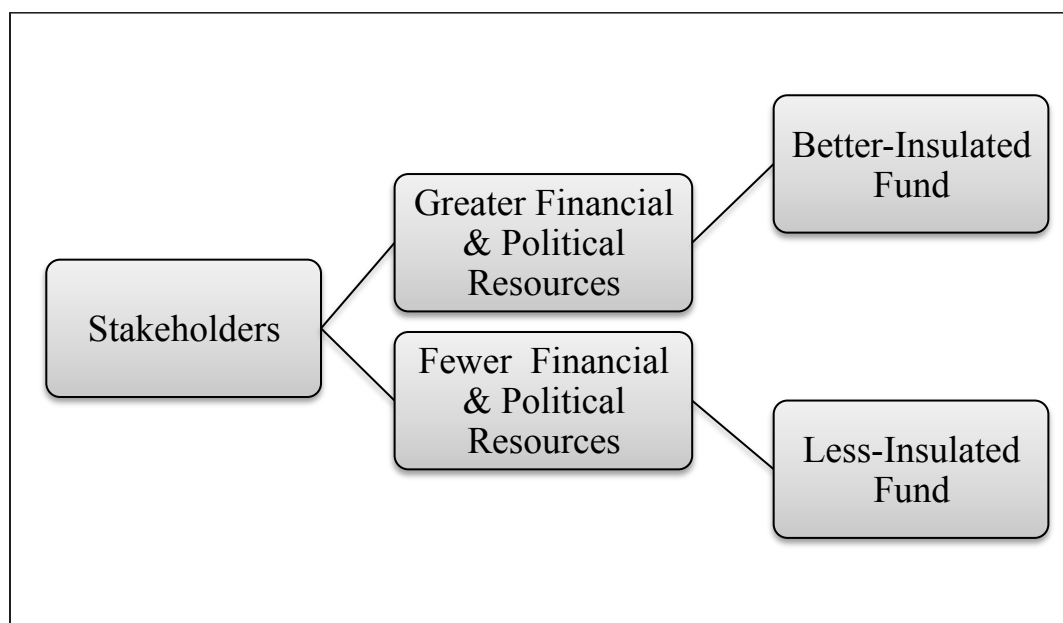
Hypothesis 3 (Confirmed). The next stakeholder characteristic utilized describes stakeholders' motivation for being involved in either the education or environmental fund groups. Respondents used similar descriptive words when characterizing the individuals in these groups and why each was presumably driven to support one group or another (Respondent Interviews, 2011). For the education stakeholders, words used were: "educators," "altruistic," "committed," "self-less," "public servants" and "giving" in describing what appeared to be a "secondary interest" in the funds since the perceived benefit was for "others," not themselves. In describing the environmental stakeholders, respondents acknowledged that most people involved in the group were motivated by a "self-interest," or primary interest, meaning that conservation issues were connected to their personal hobby such as hunting or bird watching, or their own livelihood as a

farmer, rancher or conservationist (Respondent Interviews, 2011). Environmental stakeholders included several national conservation groups and their paid staff and/or board members, all who were vocal members and financial supporters of the Lottery Act and getting the Environmental Trust Act passed. Figure 3.4 (below) is a similar diagram to the previous figures showing the possible effect of stakeholders having a secondary interest or a primary interest in the beneficiary fund. Respondents characterized the groups as being more or less trusting of government and others to act in the groups' best interests. For example, respondents thought the secondary-interest group was more trusting of others to "get it" and do what they saw as the "right" thing, whereas the primary-interest groups had no expectation that government officials would look out for their interests so they worked politically to make sure they got the policy implemented how they wanted it and not merely hope for the best (Respondent Interviews, 2011).



**Figure 3.4 Diagram of H<sub>3</sub> Stakeholder Motivation and Resulting Type of Fund**

Hypothesis 4 (Confirmed). Multiple respondents commented on the ability of the environmental stakeholders to raise money for political campaigns from several wealthy sources in Omaha, including many conservationists and hunting friends of the Governor (Respondent Interviews, 2011). Respondents characterized this group as some of the largest political campaign donors and, because of this, the Governor and Legislators they contributed to were committed to approving the Lottery Act (Figure 3.5, below). Some respondents also claimed the only reason they brought in education as an equally-funded beneficiary is that supporters didn't think they could get voters to approve the lottery with the environment as sole beneficiary (Respondents B and D, 2011). This appears to be an opinion supported by the public record which shows that in the year before Nebraskans voted on the Act, one of the nation's largest lottery vendors, GTECH, sponsored a statewide poll of 500 voters asking for their opinion on four questions concerning the proposed lottery (Cordes, 1991). One question included in the survey asked voters how they would prefer the lottery proceeds be spent, asking if they preferred education or the environment (p. 1). Of the 500 voters polled and of those who responded to the question, 60% said they preferred education while only 10% favored the environment (p. 1).



**Figure 3.5 Diagram of H<sub>4</sub> Stakeholder Resources and Resulting Type of Fund**

While these four illustrations are simplified, they do support the hypotheses containing three of the four variables used in this study, that: (1) whether stakeholders are employed by the state and (2) the stakeholders' motivation and (3) resources, influence how a beneficiary fund will be structured. In the case of the Nebraska education fund, what respondents were emphatic about was that there wasn't any disagreement over which agency would coordinate the education fund as the state's Department of Education was an obvious choice (Respondent Interviews, 2011). And while all of the stakeholders were interested in education because they were educators or parents, the level of political activism was low because of two possible reasons: (1) as state employees, the educators have limited capability (Nebraska Professional Practices Commission) to promote one preference over another because of state rules regulating employees' ability to lobby state government (Respondent C, 2011); and (2) the group of stakeholders that were not employed by the state, such as PTO members, were so

“fractured,” (Respondent C, 2011) and spread out across the state that the group was not an organized voice to advocate one position over another (Respondent B, 2011).

Moreover, the environmental stakeholders were causing policy-makers a headache because of the “contentiousness” of the advocates (Respondent B, 2011).

Every environmental group in the state, according to three respondents, wanted a piece of the lottery pie and it was not a clear choice to put the administration of the fund at the sole discretion of the state’s Game and Parks Commission since the agency would be one of the major recipients of grants from the fund. Then-Gov. Ben Nelson’s staff knew there would be no peace unless all of these groups could be satisfied that they would each have the ability to apply for grants and that the numerous stakeholder groups could share in the administration and decision-making for the fund (Respondent Interviews, 2011).

What was settled upon to appease these well-organized, well-funded and politically savvy groups was that the Legislature would enact the Environmental Trust Act which established a new Executive Branch entity for the state, the Environmental Trust (Nebraska Legislature, 1993).

## **Chapter 4 – Discussion & Future Research**

These four stakeholder variables presented here give us tremendous insight into how the two Nebraska primary lottery beneficiary funds were created and implemented, not only enabling us to better describe the differences between the two funds, but they also provide explanatory power that we did not have prior to the study to understand why one fund was better protected. By isolating particular variables in the stakeholders' groups, considering how (1) whether stakeholders were primarily employed by the state, (2) their motivation and (3) the group's ability and money to organize, were used to not only get the ear of government, but also its legs to get the legislation passed and implemented to their satisfaction.

This qualitative foundation can be used in the future as a basis for generating quantitatively testable hypotheses on a larger scale. This result with a small respondent sample and using the example of one state's funds only gives possible explanations of what happened in Nebraska. While these results can not be generalized to other funds in other states, it is a start in providing a direction for how we can explain the implementation of funds by the types of stakeholders involved. It is also important to note here that while these stakeholder qualities have been teased apart to look at the effect of each quality individually, it was the combination of all of them that led to the resulting fund structures. In no way should it be construed that each quality individually could have resulted in the same outcome.

Future Research. Further research, both qualitative and quantitative, is needed to more fully understand all of the variables, beyond the stakeholders, influencing how

lottery beneficiary funds are established, how lottery beneficiary funds are framed, or presented, to the public prior to approving a state-wide lottery act and how that frame changes over time. Policymakers depend upon the people's trust. When policy-makers enact lotteries for one reason and then change it later, the people may feel they've been victims of "bait and switch" legislation and that will lower their trust and jeopardize the success of the next policy that comes before them.

This is not an issue isolated with Nebraska. Several states have experienced the same situation where the lottery is established to add extra money to the state's education budget and then several years later the funds are changed or the money simply becomes subsumed into the regular budget and the state decreases its allocation to schools or other beneficiaries. Gribben and Bean (2005) suggest that naming education as a beneficiary is merely a ploy to get lotteries approved. Their study revealed the later redirection of these education funds were more a norm for lottery states than anomaly (p. 360).

The Nebraska case study offers a greater understanding of how this happened because Nebraska's lottery legislation established two primary beneficiaries and each created a separate fund and even subfunds. What distinguishes this case is that each fund was structured differently offering one beneficiary greater protection from future legislative interference.

Scholars have lamented the fact that these funds commonly change over time and after some years no longer benefit the beneficiary the public originally chose (Novarro, 2002). By deconstructing the changing education fund in Nebraska, all states and supporters of the beneficiaries can make more informed decisions about all types and



designs of beneficiary funds to ensure that voters' decisions are carried out by future legislatures. Additionally, being aware of how these funds typically change over time can lead to greater accountability for office holders and more transparency in the allocation of lottery proceeds.

As seen in the Nebraska case, the issue of framing education lotteries is important to consider because the public's perception of where lottery dollars are going is critical (Brandon, 1993). Additionally, once these beneficiary funds have evolved after a decade or more and the actual dollars allotted to schools decreases, schools are forced to take on the task of educating taxpayers on how little the schools actually receive from the lottery (Brandon, 1993), thus challenged with presenting a revised frame to the public. The schools also have to communicate with the public how state funding appropriated to schools decreases over time as the state turns to lottery funds to reduce the state's contribution to schools and rescue the state during financial crises.

Along with the initial education frame presented, another framing area to study would be the changes in marketing materials from state lotteries where beneficiary funds are no longer contributing extra money to education. This research could discover the various frames employed to encourage players to keep playing the games without specifically telling players how little the beneficiaries are currently receiving by touting cumulative contributions that give a better impression. An example of this is the Nebraska Lottery Web site that displays an extremely large graphic that is impossible to miss located near the middle and top of the home page claiming: "429 million back to Nebraska" which is the total of all transfers to beneficiary funds since the lottery's

inception in 1992 (Nebraska Lottery, 2012). While it is clear that \$429 million was transferred to the beneficiary funds by the Lottery division, it does not mean that the money was spent on the intended beneficiaries.

Among the variables tested here, the focus was on the two sets of primary stakeholders competing for lottery funds. While in Nebraska those competing groups had a pronounced effect on how the beneficiary funds were set up, this could be a situation unique to Nebraska or typical of low population states. A quantitative study of all state lottery beneficiary funds and how each fund was established, the types of accounting involved, the controls employed for transfers in and transfers out to state general funds or other uses would expand our knowledge of how these policies are implemented and how policy transparency, such as the case of Georgia, can further the public's continued support of lottery policies.

State operated lotteries, for those states that have already implemented them and for many that are now dependent upon the lottery income for general fund expenses, are destined to stay. Citizens in the voting booth across the country have already answered the normative, and moral, question of whether states should be operating lotteries to pay for schools or other worthy projects.

What does remain to be answered is arriving at a better understanding of entrenched lotteries, how citizens of lottery states can regain control of how these beneficiary funds are allocated and to ensure that intended beneficiaries are truly benefitting from the lottery, rather than feel as if the citizens of the state are enslaved by the lottery. In Nebraska, these funds have truly been a boon to the environment and have

increased spending for environmental and conservation projects across the state by more than \$14 million each year (Nebraska Environmental Trust, 2010). However, in the case of education, the beneficiary funds initially allocated to improve K-12 school and student learning have mostly been a disappointment as the funding has decreased from the original 49.5% percent of the lottery profits down to 19.75% and the innovative grants fully eliminated. Assessing the actual dollar amount of that disappointment is a challenge even for the state's accountants as described earlier. Increased transparency and changes in state recordkeeping should make possible the task of tracing where these lottery proceeds were actually spent and how the beneficiary funds have affected regular state spending. Yet if one merely looks at the programs the Legislature has designated as receiving these funds, it appears the biggest losers are the majority of K-12 students in Nebraska. While supporting college loans for future teachers is a worthy use, what it guarantees for these children is less valuable than what it provides for the loan recipient and the Nebraska colleges and universities they attend. For example, when Nebraska voters first approved a state-wide lottery, all the money earmarked for education was to be extra money in the form of grants given to K-12 schools and districts for innovative projects that would lead to greater student learning. The promise was that this innovative grant money would be an infusion of funds into programs that would have a direct impact on student learning and achievement.

Since at least 2001, however, lottery proceeds earmarked for education have been diverted legislatively into the General Fund, and the bulk of the education money continues to be earmarked for colleges and universities for undergraduate students grants,

not K-12 students (Appendix C). Other projects benefitting from the remaining lottery education funds include small school district consolidations, distance education and early childhood education programs (Appendix C). Yet, due to the difficulty in tracking these funds from Lottery transfer to final destination, it is impossible to know exactly how much of these lottery education funds actually achieved an educational purpose. It is also impossible to discover if these funded projects were areas the state would have funded anyway, even without the infusion of lottery funds.

Considering the forgivable loans for future teachers, funded with the Education Innovation Fund, one argument supporting this program is that it does benefit K-12 students in that these future teachers will come back and teach in Nebraska. While it appears on the surface to be a win for Nebraska's kids, the lasting promise of this loan forgiveness program is that Nebraska's K-12 students are nearly guaranteed to have new, inexperienced teachers throughout their education.

Another area that should be examined is the effect lottery beneficiary funds have had on school fundraising. The difficulty experienced by school officials when asking for increased community support is the public's perception that the schools are well funded because of the lottery money, as noted earlier (Moore, 2010). Some schools in the country have gone to great lengths with public relations campaigns to show their community the actual impact of lottery funds as compared to their total budget. In one example, the study calculated the number of days states could operate its schools if only lottery profits were available to show that less than two weeks of education could be

conducted on lottery funds alone by states such as Illinois and Ohio, but only four days for California and Idaho, and one day for Montana (Brandon, 1993, p. 7).

Nebraska voters sent a message to its leaders in 1992 – a state lottery was approved and the hope was that it would infuse money into the state to help fund worthy causes. While the money earmarked for education is a small fraction of the state's education budget, what appears to have been most costly is the perception that Nebraska's public K-12 schools are being well-subsidized through lottery profits. It would be impossible to gauge how much the schools have lost in community-wide donations due to this misconception. This project has offered possible explanations for how the education fund was left more vulnerable than the Environmental Trust Fund. The process of policy implementation is political, as seen in the example of Nebraska's two primary beneficiary funds, and it appears that in the foreseeable future, the funds held by the Environmental Trust will be targeted by a cash-strapped Legislature as a budget panacea and the Trust will, once again, find itself compromising in order to save the Trust. However, there is no doubt that since the Nebraska Lottery's inception, the environment in Nebraska has fared far better K-12 students in the state. The promise voters gambled on with the Nebraska Lottery, with its infusion of new funds to make Nebraska schools better, appears to have been unfulfilled. While it is evident that the education money has helped bail out the state during difficult times, it is equally clear that for the state's K-12 students in public schools, Nebraska has yet to hit the jackpot.

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## Appendix A: State Aid to Nebraska and Lincoln Schools

**Table A.1 State Aid to Nebraska Schools, 1992-2010**

Budget Year	State Aid to NDOE	% Change from Previous Year	Average Daily Membership (ADM)	% Change from Previous Year	State Aid Per Capita (ADM)	% Change from Previous Year	Total Annual NDOE Costs	% Change from Previous Year	Total Annual Costs Per Pupil (ADM)	% Change from Previous Year	State Aid Per Capita as a % of Total Costs Per Pupil (ADM)
1992/93	\$369,044,371.46	N/A	276,982.19	N/A	\$1,332.38	N/A	\$1,303,089,788.14	N/A	\$4,704.60	N/A	28.32%
1993/94	\$381,263,964.14	3.31%	278,256.30	0.46%	\$1,370.19	2.84%	\$1,378,757,069.09	5.81%	\$4,954.99	5.32%	27.65%
1994/95	\$398,887,517.49	4.62%	280,941.13	0.96%	\$1,419.83	3.62%	\$1,451,714,541.94	5.29%	\$5,167.33	4.29%	27.48%
1995/96	\$414,061,304.21	3.80%	283,147.45	0.79%	\$1,462.35	3.00%	\$1,514,528,792.74	4.33%	\$5,348.90	3.51%	27.34%
1996/97	\$448,216,186.20	8.25%	284,723.43	0.56%	\$1,574.22	7.65%	\$1,558,293,896.16	2.89%	\$5,473.01	2.32%	28.76%
1997/98	\$465,953,313.73	3.96%	284,997.74	0.10%	\$1,634.94	3.86%	\$1,592,825,887.37	2.22%	\$5,588.91	2.12%	29.25%
1998/99	\$593,242,221.61	27.32%	283,440.80	-0.55%	\$2,093.00	28.02%	\$1,654,835,654.73	3.89%	\$5,838.38	4.46%	35.85%
1999/00	\$595,404,900.88	0.36%	280,181.42	-1.15%	\$2,125.07	1.53%	\$1,737,644,580.95	5.00%	\$6,201.86	6.23%	34.27%
2000/01	\$563,124,656.62	-5.42%	278,209.57	-0.70%	\$2,024.10	-4.75%	\$1,850,505,516.65	6.50%	\$6,651.48	7.25%	30.43%
2001/02	\$646,875,611.53	14.87%	277,265.02	-0.34%	\$2,333.06	15.26%	\$1,975,786,626.24	6.77%	\$7,125.99	7.13%	32.74%
2002/03	\$661,940,176.09	2.33%	277,286.40	0.01%	\$2,387.21	2.32%	\$2,073,060,243.30	4.92%	\$7,476.24	4.92%	31.93%
2003/04	\$640,540,648.21	-3.23%	276,787.31	-0.18%	\$2,314.20	-3.06%	\$2,158,515,674.99	4.12%	\$7,798.46	4.31%	29.68%
2004/05	\$634,350,384.47	-0.97%	276,731.95	-0.02%	\$2,292.29	-0.95%	\$2,217,418,785.49	2.73%	\$8,012.88	2.75%	28.61%
2005/06	\$700,847,396.89	10.48%	277,526.91	0.29%	\$2,525.33	10.17%	\$2,361,675,137.09	6.51%	\$8,509.72	6.20%	29.68%
2006/07	\$718,338,252.01	2.50%	278,398.77	0.31%	\$2,580.25	2.17%	\$2,512,122,142.39	6.37%	\$9,023.47	6.04%	28.59%
2007/08	\$769,472,000.78	7.12%	278,862.66	0.17%	\$2,759.32	6.94%	\$2,657,288,950.94	5.78%	\$9,529.02	5.60%	28.96%
2008/09	\$839,391,320.40	9.09%	279,765.42	0.32%	\$3,000.34	8.73%	\$2,804,144,880.03	5.53%	\$10,023.20	5.19%	29.93%
2009/10	\$840,187,516.43	0.09%	281,623.94	0.66%	\$2,983.37	-0.57%	\$2,842,114,761.17	1.35%	\$10,091.88	0.69%	29.56%

Source: Nebraska Department of Education, 2011

**Table A.2 Lincoln Public Schools State Aid Compared to Average Enrollment**

<b>Certification Year</b>	<b>Lincoln Public Schools State Aid Received</b>	<b>% Change from Previous Year</b>	<b>Average Daily Membership (ADM)</b>	<b>Per Capita</b>
1990/91	\$20,290,577.26	N/A	N/A	N/A
1991/92	\$27,541,313.51	35.73%	N/A	N/A
1992/93	\$29,394,822.61	6.73%	N/A	N/A
1993/94	\$31,190,390.93	6.11%	N/A	N/A
1994/95	\$31,490,260.09	0.96%	N/A	N/A
1995/96	\$30,297,166.77	-3.79%	N/A	N/A
1996/97	\$32,909,930.14	8.62%	N/A	N/A
1997/98	\$31,097,947.01	-5.51%	N/A	N/A
1998/99	\$48,299,915.63	55.32%	N/A	N/A
1999/00	\$46,761,576.03	-3.18%	N/A	N/A
2000/01	\$46,384,229.23	-0.81%	N/A	N/A
2001/02	\$55,745,959.18	20.18%	N/A	N/A
2002/03	\$52,866,337.29	-5.17%	30,791.63	\$1,716.91
2003/04	\$46,550,723.48	-11.95%	30,929.38	\$1,505.06
2004/05	\$42,166,530.14	-9.42%	31,035.37	\$1,358.66
2005/06	\$48,289,519.06	14.52%	31,358.93	\$1,539.90
2006/07	\$47,691,855.91	-1.24%	31,733.14	\$1,502.90
2007/08	\$51,361,908.05	7.70%	N/A	N/A
2008/09	\$64,501,826.30	25.58%	32,865.70	\$1,962.59
2009/10	\$79,168,098.75	22.74%	33,538.83	\$2,360.49
2010/11	\$81,059,531.54	2.39%	N/A	N/A

Notes: Not all information for all years has been made available by the NDOE. Additionally, the 2007-08 ADM and per capita data were corrupted and not included here. The 2010-11 ADM and per capita data was unavailable. No adjustments for inflation have been made.

Source: Nebraska Department of Education, 2010

**Appendix B: Nebraska Lottery Act Chronology**

The Nebraska Lottery and its beneficiary funds have undergone numerous statutory changes since the state's leaders first began serious movement toward enacting a lottery. While this chronology is in no way inclusive of every change along the way, it does present a useful guide to the complex history and evolution of the beneficiary funds. The emphasis in the timeline is placed on the education funds since this beneficiary has experienced numerous changes over time and is the most complex. Additional clarification on the legislated changes to these beneficiary funds is located in Appendix C, D and E.

**Jan. 30, 1989:**

In a letter to a concerned resident, then Nebraska Gov. Kay Orr wrote, "The introduction of legalized gambling in any state is usually accompanied by laudable goals that disguise the true nature of the activity. ... it will be difficult for Nebraskans to resist the temptation of starting a state lottery" (Orr, 1989).

**Nov. 6, 1990:**

Ben Nelson defeated Kay Orr and became Nebraska's Governor. Nelson was a proponent of establishing a state-run lottery and his opponent, Gov. Orr, was strongly opposed. After winning the election, Nelson and his new staff immediately began a public relations campaign and traveled across the state promoting the types of innovative projects benefitting education and the environment that could be funded if Nebraskans approved a lottery (Respondent Interview, 2011).

**1991:**

Campaign to support approval of a new state lottery forms under the name, “Friends of Education and the Environment,” with a campaign manager and office address on South 14<sup>th</sup> Street in Lincoln (Nelson, 1991).

**Jan. 30, 1991:**

Gov. Nelson, in an *Omaha World-Herald* interview, explained his commitment to seeing the lottery proceeds going to education as supplemental funds, “not a substitute for its current funding” (Shanahan, 1991).

**May 3, 1991:**

*Omaha World-Herald* editorial entitled, “Let Senators Decide Where Lottery Funds Go,” supports leaving beneficiary designations out of the state’s Constitutional language (1991).

**June 7, 1991:**

LB 849, the legislation that created the state lottery and established the funds and criteria for grants, was passed by the Legislature and signed into law (Nebraska Legislature, 1991) prior to the statewide vote approving the lottery.

This initial legislation established the following funding allocations from lottery profits, the amount remaining after lottery prizes and lottery operating expenses are paid:

Education Innovation Fund: 49.5%  
 Legislative Assistance Fund: 49.5%  
 Gamblers Assistance Fund: 1%

Subsection 4 of the bill created and detailed the Legislative Assistance

Fund as follows:

“The Legislative Assistance Fund is hereby created. The fund shall be distributed as directed by the Legislature, except that money in the fund shall not be used to finance programs which require more than a one-time expenditure, to supplement an existing budget, or to finance long-term or ongoing projects” (p. 2558).

LB 849 contained a list of fourteen categories of projects that could receive grants from the Education Innovation Fund:

- (a) “The development of local strategic plans by school districts;
- (b) Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration;
- (c) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;
- (d) An educational accountability program to develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;
- (e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;
- (f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;
- (g) Early childhood education and parent education which emphasize child development;
- (h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;
- (i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;
- (j) Development of magnet or model programs designed to facilitate desegregation;
- (k) Programs that address family and social issues impairing the learning productivity of students;
- (l) Programs enhancing critical and higher-order thinking capabilities;
- (m) Programs which produce the quality of education necessary to guarantee a competitive work force; and
- (n) Programs designed to increase productivity of staff and students

through innovative use of time” (pp. 2556-57).

The bill then outlines the Excellence in Education Council’s creation and rules for operation:

“The Governor shall establish the Excellence in Education Council which shall have the following powers and duties:

- (i) Develop and publish criteria for the awarding of grants for programs pursuant to this subsection;
- (ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of project funding;
- (iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by the Education Innovation Fund;
- (iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;
- (v) Consider the reasonable distribution of funds across the state and all classes of school districts; and
- (vi) Provide annual reports to the Governor concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program” (pp. 2557-58).

**Apr. 17, 1992:**

LB 1257 was passed and signed into law, which contained the Nebraska Environmental Trust Act (Sections 45-53) in addition to creating the Solid Waste Landfill Closure Assistance Fund (Section 54), both of which eliminated of Legislative Assistance Fund established with LB 849 (Nebraska Legislature, 1992).

The bill also reallocated the lottery profits as follows:

Education Innovation Fund: 49.5%

Solid Waste Landfill Closure Fund: 24.5% (expires July 1, 1997)

Nebraska Environmental Trust Fund: 25%

After July 1, 1997, when transfers to the Solid Waste Landfill Closure Fund ends, the Environmental Trust Fund will receive 49.5% of lottery profits (pp. 1566-67).

### **Oct. 13, 1992:**

*The Lincoln Star* published an editorial urging a no vote on the issue of enacting a state-run lottery (The Lincoln Star, 1992). The newspaper cited ethical problems with state-operated lotteries and opined that more people are hurt financially and psychologically by lotteries than are helped (ibid).

### **Nov. 3, 1992:**

In the General Election, as Bill Clinton was elected the nation's 42<sup>nd</sup> President, Nebraskans passed Amendment 1A, a Constitutional amendment to authorize the state to conduct a lottery. The Amendment designated that the Legislature would decide how to distribute the estimated \$15-25 million in annual profits and was passed with 62% of the voters approving (Krasnowsky, 1992).

### **1992:**

From the Excellence in Education Council Annual Report (1993-94):

“LB 1257 did not make any substantive changes to the Education Innovation Fund. The bill...[d]eleted the “Legislative Assistance Fund” as a trust fund and added the Solid Waste Landfill Closure Assistance Fund and the Nebraska Environmental Trust Fund as trust funds, receiving 24.5% and 25% of lottery proceeds respectively. The bill specified that after July 1, 1997, 49.5% of lottery proceeds would be transferred to the Nebraska Environmental Trust Fund. The Education Innovation Fund and the Gamblers Assistance Fund percentage of proceeds, 49.5% and 1% respectively, remained the same” (1994, p. 1).

**1993:**

The Nebraska Legislature passed the Environmental Trust Act incorporating sections 81-15,170 through 81-15,176, which created a new state agency in the Executive Branch and created the Fund, and included details and requirements for hiring an executive director and duties of the board, how members were to be appointed and the types of grants the Trust should fund. The Act also created an endowment fund for continued investment of funds transferred to the Trust and the interest earned from that Fund could be used by the Trust for grants (Nebraska Legislature, 1993).

**1993:**

Nebraska Statutes Chapter 9-812 established the new state lottery, created the Education Innovation Fund (Nebraska Legislature) and provided detailed criteria for how the profits were to be distributed among the beneficiary funds. The legislation established the Excellence in Education Council, to assist the Governor in carrying out the duties outlined in 9-812 by accepting applications, reviewing and ultimately recommending projects for the Governor to award grants from the Fund. The Council was not established as a state agency.

**Feb. 24, 1993:**

LB 138 was passed and signed into law. This bill made a few language changes regarding the compulsive gambling fund and created a new division of the Department of Revenue, the Division on Compulsive Gambling along with the Nebraska Advisory Commission on Compulsive Gambling, an 11-member group that would be appointed by the Governor (Nebraska Legislature, 1993, pp. 850-51). The bill also made changes to



the eligibility and criteria list for Education Innovation Fund grants, now specifying a “local strategic plan” must be required of school districts before grants are awarded and noting that special consideration would be given to projects that included matching funds, cooperative agreements or agreements for in-kind services (p. 848). Additionally, the criteria list was reordered, moving the former subsection 2 (c) about grants for professional development up to subsection 2 (a), with the previous (a) becoming (b), and the former (b) now (c). Oddly enough, while now mandating that a strategic plan be provided prior to receiving a grant, the legislature did not make changes to subsection 2 (b) allowing for grant funds to be used to develop a local strategic plan (pp. 848-49).

### **1993:**

From the Excellence in Education Council Annual Report (1993-94):

“LB 138 was designed primarily to reenact the provisions of LB 849 of 1991, concerning the establishment of a state lottery. The people of the state voted to allow the Legislature to authorize a state lottery with the passage of a constitutional amendment on November 3, 1992. Major elements of the bill as it related to the Education Innovation Fund, are noted below:

- After the General Fund is repaid, at least twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred to the Education Innovation Fund (EIF), the Solid Waste Landfill Closure Assistance Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund.
- Forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the EIF.
- Added new language to section (2) which read, ‘Each year beginning with fiscal year 1994-95, at least seventy-five percent of the lottery proceeds allocated to the EIF shall be available for disbursement’” (1994, p. 1).

**May 25, 1993:**

LB 563 was passed and signed into law, making changes in the wording throughout 9-812 clarifying that strategic school plans were to be “strategic school improvement” plans (Nebraska Legislature, 1994) although the language from the previous bills that a strategic plan must be in place in order to receive grant money and that developing a strategic plan was allowable for funding under subsection 2 (c) remained (p. 2407). The bill also added subdivision 2 (o), allowing Education Innovation Fund grants for:

“Training programs designed to benefit teachers at all levels of education by increasing their ability to work with educational technology in the classroom” (p. 2408).

**June 8, 1993:**

The first terms of the Excellence in Education Council began with staggered term expiration dates. The 11-member council had a statutory makeup of: four teachers, one administrator, one parent, one school board member, one business representative, one postsecondary institution member, one educational organization member and one member of the general public (Excellence in Education Council, 1994).

**Oct. 30, 1993:**

The Lottery raised more than \$10 million in the first seven weeks of operation, or about a third of the anticipated first-year revenue (VanDeventer, 1993). The *Lincoln Journal Star* headline reads: “Lottery Honeymoon Passionate” (ibid).

**Jan. 1994:**

The newly formed Excellence in Education Council received a letter from then Gov. Ben Nelson detailing the mission for the Council and the legislative expectations for the group and the grants to be funded (Note, all underlining is contained in the original text) and is excerpted here verbatim, as it appeared in the Council's Annual Report (Excellence in Education Council, 1994):

"First of all, the legislative record, and the assurance given at the time of the original legislation and the successful campaign to obtain voter approval of the lottery, both make one fundamental point: these funds are not designed for ongoing operations. Instead, they constitute 'seed' or 'research and development' money, for one-time activities and short-term projects. Where on-going activity is concerned, participation from this funding source should be limited to jump-starting new projects or giving existing projects a boost to propel them to a significantly higher level, with continuation funding coming from other sources.

The second point is that these funds are designed to make a difference. They constitute risk capital and strategic assets in search of educational visionaries and entrepreneurs. They are not a slush fund or a pot of reserves for undertaking routine or well-tried projects (no matter how worthy), or for attempting activities that previously have not been found sufficiently cost-effective or high-priority. Two corollaries follow from the imperative of making a qualitative impact:

There must be an emphasis on results for learners, directly or indirectly (promised activity levels and an explanation of the soundness of the project should not be sufficient);

There should be an emphasis on replicability (so that the benefits will spread), on sustainability (so that the benefits will last), and on promise and significance (so that potentially large impacts are favored over smaller and safer ones, and so that areas with the highest need receive the most attention).

That said, your criteria should of course reward sound planning and should encourage building on well-laid foundations and getting an even better return on prior investment. You should also encourage collaborative planning, both among school districts and between schools and other

community resources (especially other human services agencies and other education and training institutions, notably postsecondary education).”

**April 1994:**

The Excellence in Education Council hired its first Director (Excellence in Education Council, 1994).

**Apr. 12, 1994:**

LB 647, which was passed by the Legislature and signed into law by the Governor, outlined the requirements for school districts and educational service units to identify and provide services for high ability, or “gifted,” learners. The bill also established that these gifted programs were eligible to apply for Education Innovation Fund grants and included the new subdivision 2 (p) that referred to the gifted learners’ programs that would be qualified for grants (Nebraska Legislature, 1994).

**Apr. 19, 1994:**

LB 694 was passed and signed into law, effectively transferring some of the executive power of the Excellence in Education Council to the State Board of Education by adding the following wording to subsection 2 (vi):

“To assist the council in carrying out its duties, the State Board of Education shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of programs funded from the Education Innovation Fund” (Nebraska Legislature, 1994).

**June 30, 1994:**

The first fiscal year for the Excellence in Education Council provided \$5,459,187.07 in available grant funds including \$47,592.07 in interest earned (Excellence in Education Council, 1994). No grants were funded during the first fiscal

year because the Council had not completed preparation of application procedures and forms until July/August of that year (p. 5).

**Nov. 22, 1994:**

In a request to the state Attorney General, Excellence in Education Council Chairman Ross N. Tegeler (now deceased) requested clarifications of the Council's handling of open meeting law requirements. The Attorney General's response (Stenberg & Hill, Attorney General Opinion 94092, 1994) affirmed that the Council was a public body and subject to the state's Open Meeting Law and clarified questions of eligible programs raised by the Council, excerpted here:

"The Legislature has established that incentive grants are to be awarded to encourage the development of strategic school improvement plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education" (ibid).

"The ultimate goal of the Legislature's establishment of the Education Innovation Fund is to discover innovative ideas "which bring about improvement in the quality of education." Neb. Rev. Statute 9-812. If the problem to be remedied is a reduction in the high school dropout rate, then we urge the Council to carefully examine grant applications which will further that end" (ibid).

**Mar. 6, 1995:**

Attorney General Don Stenberg issued a formal opinion that only public schools in Nebraska could receive Innovation grants and that in most cases only public school teachers could receive grants from the Education Innovation Fund (Stenberg, Attorney General Opinion 95018, 1995).

**June 7, 1995:**

LB 860 was passed and signed into law. This bill added language to section 9-812, subsection 2(c) which outlines the state's intention for all K-12 public school districts and affiliated school systems to have a direct connection to a statewide public computer information network by June 30, 2000, and that lottery funds awarded from the Education Innovation Fund could be used to assist districts in meeting this goal (Nebraska Legislature, 1995).

**Sept. 24, 1996:**

Attorney General Don Stenberg's office issued an opinion outlining the criteria for how the Excellence in Education Council could offer smaller "minigrants" in addition to the major grants it already awarded (Stenberg & Hill, Attorney General Opinion 96069, 1996).

**Mar. 26, 1997:**

The adoption of LB 118 included criteria to allow for "minigrants" of up to \$5,000 to be issued by the Excellence in Education Council to school districts with an annual budget of \$350,000 or less for innovative projects using the same categories outlined in 9-812, subdivisions 2 (a) through (p) in the statutes (Nebraska Legislature, 1997, pp. 179-80).

**June 10, 1997:**

LB 865 was passed and signed into law. An additional Education Innovation Fund grant criterion was added as subsection 2 (q):

"Programs for students with disabilities receiving special education under the Special Education Act and students needing support services as

defined in section 79-1185, which programs demonstrate improved outcomes for students through emphasis on prevention and collaborative planning” (Nebraska Legislature, 1997, p. 1644).

**Apr. 2, 1998:**

LB 924 was signed into law eliminating all contributions from lottery proceeds into the Solid Waste Landfill Closure Assistance Fund and removed the language from section 9-812 (Nebraska Legislature, 1998, p. 273). Furthermore, the bill incorporated the state’s new focus on statewide technology and communication infrastructure and added language to subsection 2 (c) that Education Innovation Fund grants related to technology must be reviewed by the technical panel established in other parts of LB 924 (p. 274), and added responsibilities of the Excellence in Education Council to provide recommendations to the new Nebraska Information Technology Commission (p. 275).

**Apr. 8, 1998:**

The Governor signed LB 1228 into law which changed some of the wording in section 9-812 that determined percentages of the Education Innovation Fund monies for specific areas as described here in an excerpt from that year’s Excellence in Education Council’s Annual Report (Excellence in Education Council, 1998) on the Fund (emphasis in the original to show the statute changes):

Revised the allocation of Education Innovation proceeds. Previously 100% of the proceeds were used to fund competitive incentive grants allocated by the Governor. The revised language stated, “The Education Innovation Fund shall be allocated in the following manner: Up to ten percent to fund the mentor teacher program pursuant to the Quality Education Accountability Act; up to seventy percent as quality education incentives pursuant to the act; and up to twenty percent of the fund shall be allocated by the Governor through incentive grants to encourage the development of strategic school improvement plans by school districts for accomplishing high performance learning and to encourage schools to

establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education” (1998, p. 1).

According to the legislation, the new allocation mix for the Education Innovation

Fund is as follows:

10% (up to)

In the mentor teacher program, a school district assigns an experienced teacher to mentor a new teacher during the first year of teaching.

70% (up to)

The Quality Education Incentives addition in the bill follows a list of criteria a school district would have to meet in order to qualify for grants, such as adopting education standards that are more rigorous than the standards adopted by the State Board of Education, operates an alternative school for students who have been expelled, and has at least 60% of its graduating seniors taking a standard college admissions test and scoring an aggregate score that is above the state average (Nebraska Legislature, 1998, p. 741).

Another level of incentives includes even more stringent requirements including advanced degrees of teachers in the district. For school districts meeting these standards, an application can be made for Education Innovation Funds and funds are disbursed and can be used as follows:

“Quality education incentive payments shall be made from the Education Innovation Fund on or before December 1, 1998, for the 1998-99 school fiscal year and on or before September 1 of each school fiscal year thereafter beginning with the 1999-00 school fiscal year. The payments shall equal fifty dollars per adjusted formula student or one hundred dollars per adjusted formula student for local systems in the very sparse cost grouping based on the most recent certification of state aid pursuant to the Tax Equity and Educational Opportunities Support Act. If the unobligated balance in the fund is less than the amount calculated for quality education incentive payments due to qualified local systems, each qualified local system shall receive a pro rata amount such that the amount of payments equals the unobligated balance in the fund” (p. 742).

“Quality education incentive payments shall only be used for pilot projects or model programs for the purposes set forth in section 9-812 for major competitive grants. Incentive payments may not be used to supplant federal, state, or local funds. The payments shall be made to the high school district, and the high school district prior to the application shall determine how the payments shall be used after consultation with all Class I school



districts in the local system. Quality education incentive payments, or portions of such payments, may be transferred to the Class I school districts. Quality education incentive payments shall not be included as local system formula resources pursuant to section 79-1018.01. The Excellence in Education Council may audit the use of quality education incentive payments at the discretion of the council” (p. 742).

20% (up to)

This is the current allotment for the competitive grants that up until this legislation was passed, comprised 100% of the Education Innovation Fund. Additionally, the new language in LB1228 classified the previously established “minigrants” for smaller school districts, as well as the competitive major grants, as falling under those allocations by the governor, or the new 20% category (p. 744).

**Apr. 8, 1998:**

LB 1229 was passed and signed into law further establishing criteria for school districts to identify and provide services for gifted students and adding language to 9-812 subsection 2 (p) to allow “accelerated and differentiated” programs for these high ability learners (Nebraska Legislature, 1998, p. 749).

**Apr. 10, 2000:**

LB 957 was passed and signed into law, creating the Nebraska Environmental Endowment Fund and establishing the rules for its use and investment in sections 11 and 12 (Nebraska Legislature, 2000, pp. 3-4).

**Apr. 10, 2000:**

LB 1243 was passed and signed into law adding language to 9-812, subsection 2 (q) that changed the phrase “students with disabilities” to “Programs for children from birth to age twenty-one years with disabilities receiving special education...” to clarify the types of programs that qualify for Education Innovation Fund grants (Nebraska Legislature, 2000, p. 2).

**Apr. 10, 2000:**

LB 1399 was passed and signed into law creating the Attracting Excellence to Teaching Program Act (Sections 15-23 of the bill), to provide forgivable loans to full-time college students seeking teaching degrees and who agree to teach in Nebraska schools upon graduation (Nebraska Legislature, 2000, pp. 3-4). At the time of passage, funding for the Act was a mix of appropriations by the Legislature and loan repayments and fees. This was changed in November 2001, when the Legislature passed LB 3 during its special session, which made allocations to the Attracting Excellence to Teaching Program Fund from the Education Innovation Fund (Nebraska Legislature, 2001, p. 1).

Additionally, LB 957 was also passed and signed into law clarifying how funds can be transferred from the Nebraska Environmental Trust Fund to the Nebraska Environmental Trust Endowment Fund, and that the interest earned on funds invested in the Endowment Fund can be used by the Trust for grants (Nebraska Legislature, 2000).

**Apr. 13, 2000:**

LB 659 was signed into law by the Governor, which changed the disbursement amounts received by the education and environment funds from the Nebraska Lottery. Previously, the Compulsive Gamblers Assistance Fund received only 1% of the lottery profits, after the education and environment funds each received 49.5% of profits. With LB 659, the first \$500,000 of lottery profits now is deposited in the problem gambler fund, then the previous allocations are made to the Education Innovation Fund (49.5%), the Environmental Trust Fund (49.5%) and the Compulsive Gambler Assistance Fund

(1%) (Nebraska Legislature, 2000, pp. 1-2).

**May 7, 2001:**

LB 797 was passed and signed into law. The bill changes some of the language regarding the duties and powers of the Excellence in Education Council. In 9-812, subsection 2 (c) regarding grant applications dealing with telecommunications improvements at the school district level, the bill removes the “approved by the State Department of Education” after review by a technical panel, to just “approved after review...” which apparently puts this power back in the hands of the Excellence in Education Council (Nebraska Legislature, 2001, p. 1). The bill also changes the language in subsection 2, items (i) removing the phrase “State Department of Education and replacing it with “department” and (ii) removing all mention of the Council making recommendations to the Nebraska Information Technology Commission (p. 3).

**May 21, 2001:**

The state Legislature passed and the Governor signed into law LB 833 which designated a maximum of \$3,000,000 to be collected from the Education Innovation Fund during fiscal years 2001-02 and 2002-03 to be used for public high schools yet to have distance education facilities completed instead of innovative grants, with the remaining funds transferred to the General Fund (Excellence in Education Council, 2001, p. 1).

**Nov. 8, 2001:**

The Governor signed LB 3, changing the fund allocations as summarized in the Fund’s annual report (Excellence in Education Council, 2002):

“Section 1 of this bill changed the allocations to the Education Innovation Fund. For fiscal years 2001-02 and 2002-03, up to 1.5 million dollars goes to the Distance Education Network Completion Grant and, after operating expenses for the Excellence in Education Council are deducted, the remainder of the proceeds received go to the General Fund. Beginning in fiscal year 2003-04, the Mentor Teacher Program, Competitive Incentive Grant Program and the Quality Education Incentive Payment (QEIP) Program are funded once again. However, allocations to the Quality Education Incentive Payment (QEIP) Program and the Competitive Incentive Grant Program will be reduced by ten percent each in order to fund the Attracting Excellence to Teaching Program” (p. 1).

The legislative summary for the special budget session provides the following description of the redirected education funds:

“LB 3 reallocated the proceeds of the Education Innovation Fund for 2001-02 and 2002-03. In these two years, lottery receipts will be allocated to fund a distance education network completion grant (up to \$1.5 million), operating expenses of the Excellence in Education Council and the remainder will be deposited in the General Fund. It is estimated that approximately \$6.5 million will be transferred to the General Fund each fiscal year. No funds would be allocated for the mentor teacher program, and quality education incentives and competitive grants for these two years.

Beginning in 2003-04, lottery funds will again be allocated to the mentor teacher program, quality education incentives and competitive grants with several changes. The percentage allocated for quality education incentives is reduced from 70% to 60% and the allocation percentage for competitive grants is decreased from 20% to 10%. Mentor teacher programs will receive 10% of the funds and the remaining 20% (approximately \$1.6 million) is allocated to the Attracting Excellence to Teaching Program (teacher loan forgiveness program)” (Legislative Fiscal Office, 2001, p. 10).

### **Mar. 21, 2002:**

During the first round of debate on LB 898, a bill to help the state deal with a budget shortfall of more than \$130 million, Sen. Ron Raikes, Chairman of the Education Committee, recounted to his colleagues that during the special

session of 2001, the hit that Nebraska's public schools took included the diversion of nearly all the Lottery funds for that year to the state's General fund (Nebraska Legislature, 2002).

“But I would remind you that during the Special Session there was a reduction in lottery funding, amounting to \$13 million; the reorganization incentive program for K-12 schools was eliminated, which amounted to about another \$5 million; and, in addition, the Department of Education took the agency cuts that most every other agency took. So, I wouldn't argue that up to this point the K-12 education has been out of the game, so to speak. I think they have been participating quite responsibly” (Nebraska Legislature, 2002, p. 12135).

**Apr. 8, 2002:**

The Governor signed LB 1310 (Nebraska Legislature, 2002), which was drafted to plug holes in the state budget and directed the State Treasurer to transfer \$1,600,000 from the Education Innovation Fund to the state's General Fund no later than July 16, 2002 (Excellence in Education Council, 2002).

**Aug. 15, 2002:**

LB 1 was passed and signed into law during the Legislature's second special session, directing funds as follows:

“For fiscal years 2003-04 and 2004-05, the Education Innovation Fund shall be allocated to the General Fund after operating expenses for the Excellence in Education Council are deducted. The State Treasurer shall transfer two million eighteen thousand one hundred ninety-nine dollars from the Education Innovation Fund to the General Fund within five days after the effective date of this act” (Nebraska Legislature, 2002, p. 2).

Additionally, the bill also directed the Treasurer to transfer funds from the Environmental Trust Fund as well:

“The State Treasurer shall transfer two million five hundred eighty-five thousand dollars from the Nebraska Environmental Trust Fund to the

Department of Natural Resources Interstate Water Rights Cash Fund within five days after the effective date of this act” (Nebraska Legislature, 2002, p. 9).

“The State Treasurer shall transfer two hundred twenty-five thousand nine hundred twenty-nine dollars from the Nebraska Environmental Trust Fund to the Low-Level Radioactive Waste Cash Fund within five days after the effective date of this act” (ibid).

**2002:**

In an October 7, 2007 *New York Times* article, a state accountant is quoted explaining why, in 2002, the Nebraska State Legislature began diverting lottery education funds to the state’s general fund to off-set deficits:

“In Nebraska, from 2002 through the last fiscal year, legislators diverted lottery dollars from the state's K-12 education and other programs into the general fund to make up for a shortfall.

‘Diverting lottery funds into the general fund was one of many ways to make up for the lost revenues,’ said Bruce Snyder, a supervisor in the accounting office at the Nebraska Department of Administrative Services,” (Stodghill & Nixon, 2007).

**June 30, 2002:**

In its 2001-02 Annual Report, the Excellence in Education Council reported that since its inception, the Council had awarded \$78,486,165.22 as of June 30, 2002, in grants through the competitive process established in 1994 (Excellence in Education Council, 2002). During this same fiscal year, the Department of Education directed the Council to reduce its paid staff from four to two (Excellence in Education Council).

**July 25, 2002:**

Gov. Mike Johanns issued a report on his recommendations for cuts during the upcoming special session for the 97<sup>th</sup> Legislature:

**“Education Innovation Fund** – For FY2003-04 and FY2004-05 the Governor is also recommending establishing legislative intent to use the receipts to the Education Innovation Fund, minus up to 20% for the Attracting Excellence to Teaching Program, to offset existing General Fund appropriations for educational program costs. This is estimated to be \$6.4 million per year” (Johanns, 2002, p. 10).

**Apr. 4, 2003:**

The Nebraska Department of Education issued a news release prepared by the State Board of Education urging Nebraska’s Governor and Senators to reinstate the lottery proceeds to education (State Board of Education, 2003). “Nebraska public schools received about \$8 million in lottery proceeds until 2001 when all lottery funds were redirected to the state’s general fund to offset declining revenues. The restored funds would benefit students and teachers through three programs that have been placed on hold. Those programs are: Mentor Teacher Program, Quality Education Incentive Payment Program and the Competitive Incentive Grant Program” (State Board of Education, 2003).

**May 26, 2003:**

A one-time amount of \$925,000 was transferred from the Environmental Trust Fund to the Department of Natural Resources Water Issues Cash Fund by the state Legislature during its biennial budget session with the passage of LB 408 (Nebraska Legislature, 2003, p. 4). The amount is considerably less than the \$4,028,450 requested in the Governor’s proposed budget (Lovelace, 2003).

**May 29, 2003:**

LB 574 passed and was signed into law creating and establishing rules and criteria for the Nebraska Scholarship Fund and added it to the group of lottery profit beneficiaries, splitting equally the 49.5% that had been allocated to the Education Innovation Fund (Nebraska Legislature, 2003). The bill did, however, limit the amount of money to be used for the scholarship fund to \$2 million each for fiscal years 2003-04 and 2004-05 with any remainder being transferred to the state's general fund (Nebraska Legislature, 2003, p. 4). Furthermore, for fiscal year 2005-06, \$2.5 million was allocated to the scholarship fund with any amount beyond that again transferred into the general fund (p. 4). For fiscal years beginning with 2006-07, the bill allocated all of the money being used for scholarships and other aspects of the Act (p. 5).

**April 13, 2004:**

LB 1091 was passed and signed into law, making significant changes to the allocation of Education Innovation Funds as follows:

“For fiscal years 2005-06 and 2006-07, the Education Innovation Fund shall be allocated as follows: The first one million dollars each fiscal year shall be transferred to the School District Reorganization Fund, and the remaining amount shall be allocated to the General Fund after operating expenses for the Excellence in Education Council are deducted.

At the direction of the budget administrator of the Department of Administrative Services, the State Treasurer shall transfer available unobligated balances existing in the Education Innovation Fund to the General Fund on or before July 15, 2005, in such amounts as determined by the budget administrator to include: Any unobligated money remaining as of June 30, 2004, and June 30, 2005, in the Education Innovation Fund, appropriated for the Excellence in Education Council; investment income credited to the fund; and unobligated grant fund money returned to the



state for credit to the Education Innovation Fund” (Nebraska Legislature, 2004, p. 2).

Additionally, LB 1091 also called for a one-time transfer of funds:

“The State Treasurer shall transfer five million dollars from the State Lottery Operation Trust Fund to the General Fund within fifteen days after July 1, 2004” (p. 1).

**April 15, 2004:**

LB 962 was passed and signed into law directing the State Treasurer to “transfer \$1,000,000 from the Environmental Trust Fund to the Water Resources Trust Fund on July 1, 2004” (Nebraska Legislature, 2004, p. 59).

**2004:**

The State Legislature approves, on a 32 to 15 vote, that LR 209CA, the Constitutional Amendment that appeared on the November ballot. The summary from the Legislative Session Review document (Nebraska Legislature, 2004) reads in part:

“LR 209CA divides the lottery proceeds, after payment of prizes and operating expenses, as follows: the first \$500,000, plus 1 percent of the remaining amount, to the Compulsive Gamblers Assistance Fund; 44.5 percent to the Nebraska Environmental Trust Fund; 44.5 percent to be used for education as directed by the Legislature; and 10 percent to the Nebraska State Fair Board. To qualify for the 10 percent, the amendment requires Lincoln, as the most populous city within the county where the fair is currently located, to provide matching funds equivalent to 10 percent of the fair’s take, or about \$200,000.”

As approved by voters in November, LR 209CA set the funding formula into the state Constitution, where it is much harder to change than the formula that was established by statute.

**Nov. 2, 2004:**

Nebraska voters pass Amendment 4, with 56% of voters in favor, to add the State Fair as a beneficiary of lottery proceeds (Hovey, 2004). The Amendment embeds language in the state Constitution allocating funds to the Fair and also adds language that previously was enacted by statute (Nebraska Secretary of State, 2004).

Proposed Amendment 4. Ballot language of the proposed Amendment 4 that was put before Nebraska voters in the November 2004 General Election that passed (Nebraska Secretary of State):

“A vote FOR this proposal would provide a conditional guarantee of 10% of state lottery proceeds to the Nebraska State Fair Board for operation of the Nebraska State Fair and specify the distribution of the remaining proceeds. Under this proposal, after payment of prizes and operating expenses and \$500,000 to the Compulsive Gamblers Assistance Fund, the remaining state lottery proceeds would be distributed as follows: (1) 44 ½% to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act, (2) 44 ½% to be used for education as the Legislature may direct, (3) 10% to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the amount available for distribution to the Board, but if the fair ceases operations, this share would be transferred to the state General Fund, and (4) 1% to the Compulsive Gamblers Assistance Fund.

A vote AGAINST this proposal will retain the Legislature’s authority to distribute state lottery proceeds.”

Amendment 4 Official Summary:

“A constitutional amendment to require the proceeds of the lottery operated and regulated by the State of Nebraska to be appropriated by the Legislature for the costs of the lottery, the Nebraska Environmental Trust Fund, education, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund, subject to certain conditions” (Nebraska Secretary of State, 2011).

**2004:**

After the passage of Amendment 4, as one interview subject characterized it, the post-amendment role for the Council was “de-emphasized” and disbanded (Interview 2011).

**2004:**

TITLE 92—NEBRASKA DEPARTMENT OF EDUCATION CHAPTER 89 REGULATIONS AND PROCEDURES FOR THE EDUCATION INNOVATION FUND PROGRAM – DISTANCE EDUCATION EQUIPMENT REIMBURSEMENT AND INCENTIVES (Nebraska Department of Education, 2007)

01 General Provisions

01.01 Statutory Authority. This chapter is adopted pursuant to section 79-1331, 79-1333, 79-1336, and 79-1337 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Scope of This Chapter. This chapter provides the criteria, standards, and procedures for the selection and administration of distance education programs funded from the Education Innovation Fund.

001.03 Allocation of Funds.

001.03A For fiscal year 2005-06, the Education Innovation Fund shall be allocated as follows: The first one million dollars shall be transferred to the School District Reorganization Fund, and the remaining amount shall be allocated to the General Fund after operating expenses for the Excellence in Education Council are deducted.

001.03B For fiscal year 2006-07, the Education Innovation Fund shall be allocated as follows: The first two hundred fifty thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, the next one million dollars shall be transferred to the School District Reorganization Fund, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337 R.R.S.

001.03C For fiscal year 2007-08, the Education Innovation Fund shall be allocated

as follows: The first five hundred thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337 R.R.S.

001.03D For fiscal year 2008-09, the Education Innovation Fund shall be allocated as follows: The first seven hundred fifty thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337 R.R.S.

001.03E For fiscal years 2009-10 through 2015-16, the Education Innovation Fund shall be allocated as follows: the first one million dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337 R.R.S.

001.03F For fiscal year 2016-17 and each fiscal year thereafter, the Education Innovation Fund shall be allocated, after administrative expenses, for education purposes as provided by the Legislature.

Note that after fiscal year 2005-06, there is no further mention of the Excellence in Education Council throughout the Rule 89 publication, which incorporates the fiscal year allocations taken directly from the Nebraska Revised Statutes 9-812.

**May 18, 2005:**

An opinion from the Nebraska Attorney General's office clarified that the Constitutional Amendment, passed in 2004, incorporates a distribution scheme for lottery funds that takes precedence over any legislative bills or amendments that attempt to change that formula (Bruning & Bartel, 2005).

**Apr. 3, 2006:**

LB 1061 was passed and signed into law which directed the State Treasurer to make the following transfer of lottery beneficiary funds:

“The State Treasurer shall transfer two million seven hundred sixty thousand seven hundred sixty dollars from the Nebraska Environmental Trust Fund to the University of Nebraska Central Administration Designated Cash Fund on March 1, 2007, unless LR 259CA is approved by the voters in the November 2006 general election, then the transfer shall occur on November 15, 2006” (Nebraska Legislature, 2006, p. 5).

**Apr. 11, 2006:**

LB 1208 was passed and signed into law, which eliminated all of the language in 9-812 subsection 2 regarding the Excellence in Education Council, its granting function and innovative educational projects and replaced these sections with allocations to district consolidation, distance education equipment and forgivable college loans for new teachers, with any remaining funds to be directed by the Legislature, not the governor (Nebraska Legislature, 2006). The bill also incorporated language regarding the State Fair that was added as a beneficiary by the Constitutional Amendment passed in 2004, and codified the new formula for dividing the lottery profits:

Compulsive Gamblers Assistance Fund: First \$500,000, plus 1%  
 Education Innovation Fund: 19.75%  
 Nebraska Scholarship Fund: 24.75%  
 Nebraska Environmental Trust Fund: 44.5%  
 Nebraska State Fair Board: 10%

**Apr. 22, 2009:**

LB 547 was passed and signed into law expanding the allocations for the teacher college loan forgiveness program to include not only those students seeking undergraduate degrees, but graduate degrees as well (Nebraska

Legislature, 2009, p. 2). The bill clarifies earlier language regarding the college loan programs funded by the Education Innovation Fund such as the Attracting Excellence to Education Fund and the newly created Enhancing Excellence in Teaching program. Both programs provide forgivable loans to college students seeking teaching degrees. In the Attracting Excellence to Education Fund, the loans are awarded to students who have graduated from high school in the top quarter of their class or who have maintained a 3.0 grade point average; agree to become a certified teacher in an area of need in Nebraska schools and to attend an approved Nebraska college or university teaching program. After graduation, by becoming employed in a Nebraska public or approved private school, recipients can have a portion of the debt forgiven for each year of teaching. In the Enhancing Excellence in Teaching program, current teachers are encouraged to seek graduate degrees and these loans are provided with the same stipulation so that after they received their degree, they teach full-time and have the loan eventually forgiven after an agreed upon number of years of service. Both of these loan programs are funded from the Education Innovation Fund portion of lottery beneficiary funds, not the Nebraska Scholarship Fund (Nebraska Legislature, 2009).

**May 19, 2009:**

LB 545 was passed and signed into law altering the allocation of funds for fiscal year 2009-10 incorporating the fund name change for the Excellence in Teaching Cash Fund as follows:

“For fiscal year 2009-10, the Education Innovation Fund shall be allocated as follows: Any amounts transferred to the Education Innovation Fund from the School District Reorganization Fund shall be returned to the School District Reorganization Fund first, the next one million dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337” (Nebraska Legislature, 2009, p. 2).

**Nov. 20, 2009:**

LB 2, passed and signed into law during the Legislature’s special budget session, directed the transfer of funds as follows:

“The State Treasurer shall transfer ten million dollars from the Education Innovation Fund to the University Cash Fund on or before December 31, 2009, as directed by the budget administrator of the budget division of the Department of Administrative Services” (Nebraska Legislature, 2009, p. 2).

**Apr. 5, 2010:**

LB 956 was passed and signed into law changing the name of the Nebraska Scholarship Fund to the Nebraska Opportunity Grant Fund and other changes to the scholarship program but not to the funding scheme (Nebraska Legislature, 2010, pp. 1-3).

**Mar. 2, 2011:**

A legislative bill (LB229), which would divert \$7 million each year for the next 11 years from the Environmental Trust Fund, advanced in the Legislature although it was not prioritized by a senator and was not acted upon. The diverted funds would have paid for water projects the state is responsible to maintain (Young, 2011) and would have circumvented the grant process established by the Environmental Trust.

**Mar. 15, 2011:**

LB 333 was passed and signed into law. Previous fiscal year allocations were removed from the statute and funding allocations of the lottery profits for education in the current fiscal year was changed as follows showing no transfers to the state's General Fund:

“(b) For fiscal years year 2010-11, through 2015-16, the Education Innovation Fund shall be allocated as follows: The first one million dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337” (Nebraska Legislature, 2011, p. 2). (Note: with the exception of fund name changes, this is essentially the same as the 2004 enacted version.)

“(c) For fiscal year 2011-12, the Education Innovation Fund shall be allocated as follows:

(i) The first two hundred twenty-five thousand dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Attracting Excellence to Teaching Program;

(ii) the next three million three hundred sixty-five thousand nine hundred sixty-two dollars shall be distributed to school districts as grants pursuant to the Early Childhood Education Grant Program;

(iii) the next two million one hundred seventy-five thousand six hundred seventy-three dollars shall be distributed to local systems as grants for approved accelerated or differentiated curriculum programs for students identified as learners with high ability pursuant to section 79-1108.02;

(iv) the next four hundred ninety-one thousand five hundred forty-one dollars shall be used by the State Department of Education for the development of an integrated early childhood, elementary, secondary, and postsecondary student information system;

(v) the next four hundred fifty thousand dollars shall fund the Center for Student Leadership and Extended Learning Act;

(vi) the next one hundred fourteen thousand six hundred twenty-nine dollars shall fund the multicultural education program created under section 79-720;

(vii) the next one hundred twenty-three thousand four hundred sixty-eight dollars shall be used by the department to employ persons to



investigate and prosecute alleged violations as provided in section 79-868; and

(viii) the amount remaining shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337” (pp. 2-3).

“(d) For fiscal year 2012-13, the Education Innovation Fund shall be allocated as follows:

(i) The first forty-five thousand dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Attracting Excellence to Teaching Program;

(ii) the next three million three hundred sixty-five thousand nine hundred sixty-two dollars shall be distributed to school districts as grants pursuant to the Early Childhood Education Grant Program;

(iii) the next two million one hundred seventy-five thousand six hundred seventy-three dollars shall be distributed to local systems as grants for approved accelerated or differentiated curriculum programs for students identified as learners with high ability pursuant to section 79-1108.02;

(iv) the next one hundred eight thousand one hundred thirty-six dollars shall be used by the department for the development of an integrated early childhood, elementary, secondary, and postsecondary student information system;

(v) the next four hundred fifty thousand dollars shall fund the Center for Student Leadership and Extended Learning Act;

(vi) the next one hundred fourteen thousand six hundred twenty-nine dollars shall be used by the department to fund the multicultural education program created under section 79-720;

(vii) the next one hundred twenty-three thousand four hundred sixty-eight dollars shall be used by the department to employ persons to investigate and prosecute alleged violations as provided in section 79-868; and

(viii) the amount remaining shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337” (p. 3).

“(e) For fiscal years 2013-14 through 2015-16, the Education Innovation Fund shall be allocated as follows:

(i) The first one million dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act;

(ii) the next allocation shall be distributed to local systems as grants for approved accelerated or differentiated curriculum programs for students identified as learners with high ability pursuant to section 79-1108.02 in an aggregated amount up to the amount distributed in the prior

fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025;

(iii) the next allocation shall be used by the State Department of Education for the integrated early childhood, elementary, secondary, and postsecondary student information system in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025;

(iv) the next allocation shall fund the Center for Student Leadership and Extended Learning Act in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025;

(v) the next allocation shall be used by the department to fund the multicultural education program created under section 79-720 in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025;

(vi) the next allocation shall be used by the department to employ persons to investigate and prosecute alleged violations as provided in section 79-868 in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025; and

(vii) the amount remaining shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 79-1336 and 79-1337” (p. 3).

**Mar. 31, 2011:**

An editorial in the *Lincoln Journal Star* (Lincoln Journal Star Editorial Board, 2011) detailed an agreement made between the Legislature and the Environmental Trust regarding the proposed \$7 million annual diversion. A compromise amount of \$3.3 million each year for the next three years was agreed would be diverted to the Water Resources Cash Fund of the state’s Natural Resources Department to be used for river flow restoration work. The state NRD would apply for the grant as other groups do, but the application will be awarded bonus points to push it to the top of the grant list. The editorial states concern that by agreeing to this, the Trust has effectively let the

Legislature direct its funds and will not bode well for future fights when another Legislature wants to divert even more money (ibid).

**May 16, 2011:**

LB 575 was passed and signed into law, adding a new funding category to section 4 (d) to include funds from the Education Innovation Fund for educational opportunities for military families (Nebraska Legislature, 2011, p. 13).

**May 17, 2011:**

LB 229 was passed and signed into law, formalizing the agreement made between the Legislature and the Nebraska Environmental Trust to only divert \$3.3 million for three years to the Water Resources Cash Fund instead of the \$7 million annual diversion originally requested by the Legislature (Nebraska Legislature, 2011, p. 2).

### Appendix C: Legislative Changes to Lottery Beneficiary Funds

**Table C.1 Legislative Changes to Fund Allocations (Changes to the Environmental Funds are shaded gray).**

Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
June 7, 1991	849	40% to Prizes, amount after prizes and exp. to funds.	49.5% EIF 49.5% LAF 1% GAF		§ 12, pp. 2555-56.
Apr. 17, 1992	1257		49.5% EIF 24.5% SWF (exp 7-1-97) 25% ETF 1% GAF		§ 57, p. 1566.
Feb. 24, 1993	138	40% to Prizes, 25% to Funds		75% of funds allocated to EIF shall be available for disbursement	§ 28, pp. 847-8.
Apr. 2, 1998	924		49.5% EIF 49.5% ETF 1% GAF		§16, p. 273.
Apr. 8, 1998	1228			EIF: 10% <sup>1</sup> Mentor Teacher; 70% <sup>2</sup> Quality Educ. Incentive, 20% Innov. Grants	§ 7, p. 744; § 6, p. 743.
Apr. 10, 2000	957			Clarified how the ETF can move funds to Env. Trust Endowment Fund and use interest for future grants.	§ 7, p. 3.
Apr. 13, 2000	659		1 <sup>st</sup> \$500,000 to GAF, 49.5% EIF 49.5% ETF (no change) 1% GAF		§ 2, p. 1.
May 21, 2001	833			EIF: Fiscal years 2001-02 & 2002-03, 10% Mentor Teacher, 70%	§ 1, p. 1.

Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
				Quality Educ., 20% NTE \$1.5 mil. for Dist. Ed. Network Grants <sup>3</sup> .	
Nov. 8, 2001, Special Session	3			EIF: 10% Mentor Teacher, 60% Quality Educ., 20% Attracting Excellence to Teaching, <sup>4</sup> and 10% allocated by Governor. Except fiscal yrs. 2001-02 & 2002-03: \$1.5 mil. for Dist. Ed. Network Grants, remainder to General Fund.	§ 1, pp. 1-2; § 6, p. 5.
Apr. 8, 2002	1310			Directs Treasurer to transfer \$1,600,000 from EIF to the General Fund by 7-16-02.	§ 3, p. 2.
Aug. 15, 2002, Second Special Session	1			10% Mentor Teacher, 60% Quality Educ., 20% Attracting Excellence to Teaching, and 10% alloc. by Gov. Except 2003-04 & 2004-05, all to Gen. Fund (after misc. expenses) plus additional immediate transfer of \$2,018,199 from EIF. Also directed \$2,585,000	§ 1, pp. 1-2; § 8, p. 9.

Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
				transferred from ETF to Interstate Water Rights Cash Fund; and \$225,925 from the ETF and transferred to the Low-Level Radioactive Waste Cash Fund.	
May 13, 2003	367	Between Oct. 1, 2003 and Jan. 1, 2008, % to funds no less than the amount transferred in 2002-03; On or after Jan. 1, 2008, must be 25%.			§ 1, p. 1.
May 26, 2003	408			Transfers \$925,000 from the ETF to the Water Issues Cash Fund by July 10, 2003.	§ 6, p. 4.
May 29, 2003	574	May to Oct 1, 2003, must have 25% of lottery tickets sales to benef. funds.	NSF (undergrad need-based scholarships) created with 24.75% share of benef. funds, EIF reduced to 24.75%.	EIF: 20% Mentor Teacher, 40% Attracting Excellence to Teaching, and 40% alloc. by Gov. Except 2003-04 and 2004-05, all to General Fund. NSF: \$2 million each for fiscal years 2003-04 and 2004-05, \$2.5 million for fiscal year 2005-06 and remaining	§ 21, p. 5.

Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
				funds in those years to General Fund.	
Apr. 13, 2004	1091			State Treasurer to transfer \$5 million from Lottery Operation Fund to General Fund by 7-16-04; Fiscal years 2005-06 and 2006-07, 1 <sup>st</sup> \$1 mil. from EIF to School Dist. Reorganization Fund, remainder to General Fund, plus all unobligated funds in the EIF.	§ 1, pp. 1-2.
Apr. 15, 2004	962			\$1 million trans. from ETF to the Water Resources Trust Fund.	§ 111, p. 59.
Apr. 3, 2006	1061			Trans. \$2,760,760 from the ETF to the Univ. of Neb. Designated Cash Fund on Nov. 15, 2006.	§ 12, p. 5.
Apr. 11, 2006	1208		Adds Nebraska State Fair Board as a beneficiary at 10% <sup>5</sup> ; EIF reduced to 19.75%; ETF reduced to 44.5%; Scholarship Fund and GAF unchanged.	Directs EIF toward Attracting Excellence to Teaching Fund and Distance Ed. Funds. Eliminates Excellence in Ed. Council.	§ 1, pp. 1-4.
Apr. 4, 2007	638	Extends from Jan. 1, 2008, to July 1,			§ 16, p. 12.

Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
		2009, ability to transfer same dollar amount as in 2002-03 (see LB 367).			
May 13, 2009	286	Changes % of lottery ticket sales to beneficiary funds from 25% to between 22-25%.			§ 4, p. 3.
Nov. 20, 2009 Spec. Session	2			Directed Treasurer to transfer \$10 mil. from EIF to the Univ. Cash Fund by Dec. 31, 2009.	§ 1, p. 2.
Mar. 15, 2011	333			EIF fiscal year 2011-12: 1 <sup>st</sup> \$225,000 to fund Attracting Excellence to Teaching; the next \$3, 365,962 to Early Childhood Educ. Grant Prog.; next \$2,175,673 for gifted programs; next \$491,541 for integrated student information system; next \$450,000 to fund Center for Student Leadership Act; next \$114,629 to fund multicultural education; next \$123,468 for Dept. of Ed. to investigate grant	§ 1, p. 2-3.



Date	LB #	Division of Each Lottery Dollar	Allocation Percent Per Fund	Statutory Fund Allocations	Citation
				violations; any remaining to Distance Ed. Fund. Similar allocations for the next four fiscal years.	
May 16, 2011	575			Adds allocation in fiscal year 2012-13 for \$27,200 from EIF to fund Interstate Compact on Educ. Opportunity for Military Children.	§ 7, p. 13.
May 4, 2011 (this is the state's order, not by date.)	637			For three fiscal years beginning 2011-12, \$160,000 from EIF to fund college entrance exam pilot project for 11 <sup>th</sup> graders.	§ 22, p. 7.

**Legend:** Education Innovation Fund (EIF), Nebraska Scholarship Fund, later known as Nebraska Opportunity Fund, (NSF), Legislative Assistance Fund (LAF), Nebraska Environmental Trust Fund (ETF), Gamblers Assistance Fund (GAF) and Solid Waste Landfill Closure Assistance Fund (SWF).

<sup>1</sup>First-year teachers in local systems are provided an experienced mentor for support. Fully funded by the EIF.

<sup>2</sup>The Quality Education Incentive Payments awarded K-12 school districts from the EIF amounting to either \$50 or \$100 per student (depending upon type of district) if the district met specific improvement criteria each year.

<sup>3</sup>If, after reaching the \$1.5 million cap on Distance Education Network Completion Grants, funds remained, those funds were to be Education Innovation grants awarded by the Governor through the Excellence in Education Council process.

<sup>4</sup>The Attracting Excellence to Teaching Program consisted of forgivable loans to college students seeking teaching degrees.

<sup>5</sup>If the State Fair ceases operations, its 10% share of the beneficiary funds goes to the General Fund, not the remaining beneficiary funds (Nebraska Legislature, 2006, p. 2).

## **Appendix D: Enacting Legislation and Legislative Changes to Statutes**

Source: Nebraska Legislature, Clerk of the Legislature, 2011

### **Nebraska Revised Statutes: Nebraska Lottery Act**

#### **9-801. Act, how cited.**

Laws 1991, LB 849, § 1;  
Laws 1993, LB 138, § 17;  
Laws 1994, LB 694, § 114;  
Laws 2006, LB 1039, § 1.

#### **9-802. Purpose of act.**

Laws 1991, LB 849, § 2;  
Laws 1993, LB 138, § 18.

#### **9-803. Terms, defined.**

Laws 1991, LB 849, § 3;  
Laws 1993, LB 138, § 19;  
Laws 1994, LB 694, § 115;  
Laws 1995, LB 343, § 1;  
Laws 1999, LB 479, § 1;  
Laws 2007, LB638, § 15.

#### **9-804. Lottery Division of the Department of Revenue; established; Director of the Lottery Division.**

Laws 1991, LB 849, § 4;  
Laws 1993, LB 138, § 20.

#### **9-805. Tax Commissioner; agreements authorized.**

Laws 1991, LB 849, § 5;  
Laws 1993, LB 138, § 21;  
Laws 1999, LB 479, § 2.

#### **9-806. Legislative intent.**

Laws 1991, LB 849, § 6;  
Laws 1993, LB 138, § 22.

#### **9-807. Division; personnel; bond or insurance.**

Laws 1991, LB 849, § 7;  
Laws 1992, Third Spec. Sess., LB 14, § 1;  
Laws 1993, LB 138, § 23;  
Laws 1995, LB 343, § 3;  
Laws 2004, LB 884, § 7.

#### **9-808. Division; personnel; investigators or security personnel; powers and duties; confidentiality; exception.**

Laws 1991, LB 849, § 8;  
Laws 1993, LB 138, § 24.

**9-809. Auditor of Public Accounts; audit; Tax Commissioner; reports.**

Laws 1991, LB 849, § 9;  
 Laws 1993, LB 138, § 25;  
 Laws 1994, LB 694, § 116.

**9-810. Lottery ticket; restrictions on sale and purchase; computation of retail sales; termination of liability; prize credited against certain tax liability or debt; procedure.**

Laws 1991, LB 849, § 10;  
 Laws 1993, LB 563, § 23;  
 Laws 1993, LB 138, § 26;  
 Laws 1996, LB 1044, § 44;  
 Laws 1997, LB 307, § 1.

**9-811.01. Lottery Investigation Petty Cash Fund; establishment; use; investment; Tax Commissioner; department; duties; records and reports.**

Laws 1994, LB 694, § 117;  
 Laws 1995, LB 7, § 28.

**9-812. State Lottery Operation Trust Fund; State Lottery Operation Cash Fund; State Lottery Prize Trust Fund; created; transfers; Education Innovation Fund; created; use; investment; unclaimed prize money; use.**

Laws 1991, LB 849, § 12;  
 Laws 1992, LB 1257, § 57;  
 Laws 1993, LB 138, § 28;  
 Laws 1993, LB 563, § 24;  
 Laws 1994, LB 647, § 5;  
 Laws 1994, LB 694, § 119;  
 Laws 1994, LB 1066, § 11;  
 Laws 1995, LB 275, § 1;  
 Laws 1995, LB 860, § 1;  
 Laws 1996, LB 900, § 1015;  
 Laws 1996, LB 1069, § 1;  
 Laws 1997, LB 118, § 1;  
 Laws 1997, LB 347, § 1;  
 Laws 1997, LB 710, § 1;  
 Laws 1997, LB 865, § 1;  
 Laws 1998, LB 924, § 16;  
 Laws 1998, LB 1228, § 7;  
 Laws 1998, LB 1229, § 1;  
 Laws 1999, LB 386, § 1;  
 Laws 2000, LB 659, § 2;  
 Laws 2000, LB 1243, § 1;  
 Laws 2001, LB 797, § 1;  
 Laws 2001, LB 833, § 1;  
 Laws 2001, Spec. Sess., LB 3, § 1;  
 Laws 2002, LB 1105, § 418;  
 Laws 2002, LB 1310, § 3;  
 Laws 2002, Second Spec. Sess., LB 1, § 1;  
 Laws 2003, LB 367, § 1;

Laws 2003, LB 574, § 21;  
 Laws 2004, LB 1083, § 83;  
 Laws 2004, LB 1091, § 1;  
 Laws 2006, LB 1208, § 1;  
 Laws 2007, LB638, § 16;  
 Laws 2009, LB286, § 4;  
 Laws 2009, LB545, § 1;  
 Laws 2009, LB547, § 1;  
 Laws 2009, First Spec. Sess., LB2, § 1;  
 Laws 2010, LB956, § 1;  
 Laws 2011, LB333, § 1;  
 Laws 2011, LB575, § 7;  
 Laws 2011, LB637, § 22.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB575, section 7, with LB637, section 22, and LB333, section 1, to reflect all amendments.

**Note:** Changes made by LB333 became effective March 16, 2011. Changes made by LB575 became operative July 1, 2012. Changes made by LB637 effective May 5, 2011.

**9-813. Lottery game retailer; Tax Commissioner; powers and duties; deposit of funds; liability for tickets.**

Laws 1991, LB 849, § 13;  
 Laws 1993, LB 138, § 34.

**9-814. Prohibited acts; violations; penalties.**

Laws 1991, LB 849, § 14;  
 Laws 1993, LB 138, § 35;  
 Laws 1994, LB 694, § 120.

**9-816. Conflicts of interest; enumerated; compliance with other laws; violation; removal from office.**

Laws 1991, LB 849, § 16;  
 Laws 1993, LB 138, § 36.

**9-817. Director and employees of the division; investigatory and enforcement powers; application to district court; contempt.**

Laws 1991, LB 849, § 17;  
 Laws 1993, LB 138, § 37.

**9-819. Lottery administration; hearings; rules and regulations; director; Tax Commissioner; duties; exempt from Administrative Procedure Act.**

Laws 1991, LB 849, § 19;  
 Laws 1993, LB 138, § 39.

**9-831. Advertising on problem gambling prevention, education, and awareness messages; requirements.**

Laws 2006, LB 1039, § 2.

**9-840. Director; studies and report.**

Laws 1991, LB 849, § 40;

Laws 1993, LB 138, § 59.

**Nebraska Revised Statutes: Nebraska Environmental Trust Act****81-15,167. Act, how cited.**

Laws 1992, LB 1257, § 44;

Laws 2000, LB 957, § 7;

Laws 2002, LB 1003, § 48.

**81-15,168. Legislative intent.**

Laws 1992, LB 1257, § 45.

**81-15,169. Terms, defined.**

Laws 1992, LB 1257, § 46;

Laws 2000, LB 957, § 8.

**81-15,170. Nebraska Environmental Trust Board; created; membership; qualifications; executive director.**

Laws 1992, LB 1257, § 47;

Laws 1993, LB 138, § 79;

Laws 1996, LB 1044, § 869;

Laws 2000, LB 900, § 248;

Laws 2002, LB 1003, § 49;

Laws 2007, LB296, § 758.

**81-15,170.01. Board members; conflict of interest; treatment.**

Laws 2002, LB 1003, § 50.

**81-15,171. Board members; terms; vacancy; expenses.**

Laws 1992, LB 1257, § 48;

Laws 1993, LB 138, § 80.

**81-15,172. Board; officers; meetings.**

Laws 1992, LB 1257, § 49.

**81-15,173. Board; powers and duties.**

Laws 1992, LB 1257, § 50;

Laws 2000, LB 957, § 9;

Laws 2004, LB 832, § 1.

**81-15,174. Nebraska Environmental Trust Fund; created; use; investment.**

Laws 1992, LB 1257, § 51;

Laws 1994, LB 1066, § 124;

Laws 2000, LB 957, § 10;

Laws 2002, Second Spec. Sess., LB 1, § 8;

Laws 2003, LB 408, § 6;

Laws 2004, LB 962, § 111;  
 Laws 2006, LB 1061, § 12;  
 Laws 2011, LB229, § 2.

**81-15,174.01. Nebraska Environmental Endowment Fund; created; use; investment.**

Laws 2000, LB 957, § 11.

**81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.**

Laws 1992, LB 1257, § 52;  
 Laws 1993, LB 138, § 81;  
 Laws 2000, LB 957, § 12;  
 Laws 2002, LB 1003, § 51;  
 Laws 2004, LB 832, § 2;  
 Laws 2011, LB229, § 3;  
 Laws 2011, LB366, § 1.

**81-15,176. Environmental categories of projects; board; establish grant criteria.**

Laws 1992, LB 1257, § 53;  
 Laws 1993, LB 138, § 82;  
 Laws 1994, LB 1207, § 18;  
 Laws 1996, LB 108, § 78;  
 Laws 2000, LB 957, § 13;  
 Laws 2002, LB 1003, § 52;  
 Laws 2004, LB 832, § 3;  
 Laws 2004, LB 962, § 113.

**Nebraska Revised Statutes: Nebraska Opportunity Grant Fund (formerly  
 Nebraska Scholarship Fund)**

**85-1920. Nebraska Opportunity Grant Fund; created; use; investment.**

Laws 2003, LB 574, § 20;  
 Laws 2010, LB956, § 18.

**79-8,133. Attracting Excellence to Teaching Program; created; terms, defined.**

Laws 2000, LB 1399, § 16;  
 Laws 2003, LB 685, § 20;  
 Laws 2009, LB547, § 4;  
 Laws 2011, LB333, § 6.

**79-8,134. Attracting Excellence to Teaching Program; purposes.**

Laws 2000, LB 1399, § 17;  
 Laws 2009, LB547, § 5.

**79-8,135. Attracting Excellence to Teaching Program; administration; eligible students.**

Laws 2000, LB 1399, § 18;  
 Laws 2003, LB 685, § 21;  
 Laws 2009, LB547, § 6.

**79-8,137.01. Enhancing Excellence in Teaching Program; created; terms, defined.**

Laws 2009, LB547, § 8;  
Laws 2010, LB1071, § 8;  
Laws 2011, LB333, § 7.

**79-8,137.05. Excellence in Teaching Cash Fund; created; use; investment.**

Laws 2000, LB 1399, § 19;  
Laws 2001, Spec. Sess., LB 3, § 6;  
R.S.1943, (2008), § 79-8,136;  
Laws 2009, LB547, § 12;  
Laws 2011, LB333, § 8.

**79-8,137.01. Enhancing Excellence in Teaching Program; created; terms, defined.**

Laws 2009, LB547, § 8;  
Laws 2010, LB1071, § 8;  
Laws 2011, LB333, § 7.

## Appendix E: Transfers to General Fund from Education Funds

**Table E.1 Transfers from Education Innovation Fund to General Fund**

<b>Fiscal Year</b>	<b>Lottery Quarterly Transfer to Education Innovation Fund</b>	<b>Fiscal Year Total</b>	<b>Other Allocation</b>	<b>Amount Transferred to General Fund</b>
2001-02	\$2,380,432			
	\$2,035,072			
	\$2,077,258			\$1,600,000 <sup>1</sup>
	\$2,286,535	\$8,779,297	\$1,500,000	\$7,279,297
2002-03	\$2,080,630			
	\$2,336,835			
	\$2,902,502			\$2,018,199 <sup>2</sup>
	\$2,381,372	\$9,701,339	\$1,500,000	\$8,201,339
2003-04	\$1,526,341			
	\$1,256,751			
	\$1,242,024			
	\$1,258,553	\$5,283,669	Unk. Expenses <sup>3</sup>	\$5,100,000
2004-05	\$1,138,251			
	\$1,338,413			
	\$1,189,839			
	\$1,434,180	\$5,100,683	Unk. Expenses <sup>3</sup>	\$5,000,000
2005-06	\$1,149,130			
	\$1,571,814			
	\$1,750,262			
	\$1,558,966	\$6,030,172	\$1,000,000	\$5,030,172
2006-07	\$1,337,645			
	\$1,366,283			
	\$1,655,517			
	\$1,321,884	\$5,681,329	\$1,000,000	\$4,681,329
<b>Total</b>		\$40,576,489		\$38,910,336

<sup>1</sup>The Legislature directed the Treasurer to transfer of this amount in Apr. 2002. See Appendix C.

<sup>2</sup>The Legislature directed the Treasurer to transfer of this amount in Aug. 2002. See Appendix C.

<sup>3</sup>For Fiscal Years 2003-04 and 2004-05, the Legislature directed all of the money in the Fund be transferred to the General Fund after expenses for the Excellence in Education Council were paid. The General Fund amount listed here is a best guess, not the actual amount transferred.

<sup>4</sup>In Fiscal Year 2005-06, “all unobligated funds” were also transferred to the General Fund but are not included in this total in addition to a \$10 million transfer to the University Cash Fund in 2009.

**Source:** Appendix C Legislative Fund Transfers; Nebraska Lottery, 2012.



**Table E.2 Transfers from Nebraska Scholarship Fund to General Fund**

<b>Fiscal Year</b>	<b>Lottery Quarterly Transfer to Nebraska Scholarship Fund</b>	<b>Fiscal Year Total</b>	<b>Other Allocation (Scholarships)</b>	<b>Amount Transferred to General Fund</b>
2003-04	\$1,011,436			
	\$1,256,751			
	\$1,242,024			
	\$1,258,553	\$4,768,764	\$2,000,000 <sup>1</sup>	\$2,768,764
2004-05	\$1,138,251			
	\$1,338,413			
	\$1,189,839			
	\$1,434,180	\$5,100,683	\$2,000,000 <sup>1</sup>	\$3,100,683
2005-06	\$1,149,130			
	\$1,571,814			
	\$1,750,262			
	\$1,558,966	\$6,030,172	\$2,500,000 <sup>1</sup>	\$3,530,172
<b>Total</b>		\$15,899,619		\$9,399,619

<sup>1</sup>The Nebraska Legislature directed that in the first two fiscal years of the Nebraska Scholarship Fund, \$2 million would be allocated for scholarships and the remainder of the fund transferred to the General Fund. For the third fiscal year, the scholarship allotment was raised to \$2.5 million with the remainder again being transferred to the General Fund (Appendix C).

**Source:** LB 574, Nebraska Legislature, 2003; Nebraska Lottery, 2012.

## **Appendix F: Data Collection – Interview Questions**

In preparing for this research project, the following interview questions were developed and then approved by the University of Nebraska-Lincoln Institutional Review Board. Each participant was asked the same questions although not every question was pertinent to the experience of each interview subject.

### Interview Questions.

1. Please would you give me a brief summary of your professional and/or political background as it relates to either the lottery legislation or its implementation?
2. Thinking about the lottery legislation and the established beneficiaries (education and the environment) what do you recollect were your concerns or your colleagues concerns and/or ideas about how those funds should be established and maintained?
3. What are your recollections of why the two beneficiaries' funds were set up differently? Was there concern about future legislatures redirecting money from either fund? Probe: What do you recall about the decision-making?
4. What role did the various players play officially or unofficially in advocating for one type of fund or another?
5. In your view, how have the policies surrounding the two funds created by the Lottery Act of 1992 evolved? Probe: Were there concerns or unintended consequences that have since been relieved or, conversely, realized?
6. Who would you suggest that I speak with to get additional perspectives on this topic? Probe: Are there people who come to mind that you worked with in the past or in another agency or have since retired?